THE AMERICAN ENERGY INITIATIVE, PART 25: EPA'S PROPOSED GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARDS FOR UTILITIES AND THE IMPACT THIS REGULATION WILL HAVE ON JOBS

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

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WITNESSES

THE AMERICAN ENERGY INITIATIVE, PART 25: EPA'S PROPOSED GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARDS FOR UTILITIES AND THE IMPACT THIS REGULATION WILL HAVE ON JOBS

MONDAY, JULY 16, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, DC.

The subcommittee met, pursuant to call, at 9:00 a.m., in the Southwest Virginia Higher Education Center, One Partnership Circle, Abingdon, Virginia, Hon. Ed Whitfield (chairman of the subcommittee) presiding.

Members present: Representatives Whitfield and Griffith.

Also present: Representative Roe.

Staff present: Allison Busbee, Legislative Clerk; Cory Hicks, Policy Coordinator; Mary Neumayr, Senior Energy Counsel; Jean Woodrow, IT Director; Alison Cassady, Democratic Senior Professional Staff Member.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. I would like to call this hearing to order this morning. We said we would start at 9:00 and it is 9:00 right now.

I want to thank all of you for taking time from your busy schedules to join us this morning on what we consider a very important topic. We have a distinguished group of witnesses today. We actually will have two panels and I will introduce them, I will introduce the first panel right after I make my opening statement.

I also want to thank the Southwest Virginia Higher Education Center here in Abingdon for providing this forum for the hearing this morning, and I am delighted that your Congressman, Morgan Griffith, is here with us today and is actually responsible for us having the hearing here in Abingdon. I want to thank him for his efforts on that. And of course, Phil Roe is with us, who is a Congressman from Tennessee, and we appreciate very much his interest in this important topic and being with us this morning as well.

I will tell you that in Washington, DC, we have had a series of hearings. In fact, today is the 25th hearing that we have held on the subject matter of energy and its importance in our economy today. And in those hearings, we focused on a lot of different as-

pects. We have looked at the impact of government regulations, we have looked at the impact that those regulations have on the competitiveness of American businessmen and women competing in a global marketplace. We have looked at the impact on prices of fuel, which always plays a vital role in our ability to compete in today's global marketplace.

And this morning, we are going to be focused primarily on the new greenhouse gas regulation being issued by EPA relating to new utility plants. Now I can tell you that when the Clean Air Act was adopted—and the last time we revisited the Clean Air Act was about 1990, in the Congress. But there have been about three separate occasions in the United States Congress where the issue came up of whether or not the Environmental Protection Agency, through the Clean Air Act, should attempt to regulate greenhouse gas emissions. And every time that issue came up, the Congress specifically said no, that the Clean Air Act was not the appropriate way to regulate greenhouse gases.

And yet, as you know, many environmentalists use the court systems to end up making decisions because a lot of lawsuits are filed under the Clean Air Act. And the Clean Air Act, as it is written, if a party files a lawsuit, then the government ends up paying their legal fees for them through the judgment through the Department of Treasury, Secretary of the Treasury's Office. So a lawsuit was filed and it went all the way to the United States Supreme Court and the Supreme Court ruled that greenhouse gases are a pollutant.

Now, if you read the definition of a pollutant in the Clean Air Act, you will see that it is rather broad and rather vague and so it would be easy for a court to make a decision that that or any other gas would be a pollutant. So they made the decision and then they issued something called the tailoring rule, because when they made the decision that they were going to regulate greenhouse gases, they realized that if they regulated across the economy of the United States, that they would not have enough manpower to enforce this Act because it would apply to small businesses, it would apply to farmers, it would apply to all sorts of businesses and even non-profits, because of the emission standards that they set. And because of that, they realized that we are going to have to narrow this down, which really was in violation of the Clean Air Act itself, and we are going to apply this only to the biggest utility companies.

Now, we have a distinguished group of witnesses today that are going to get into more detail than I can right now. But when I read their testimony—these are all distinguished businessmen and women and we have some coal miners with us today too, and when you read their testimony, it is rather sobering, the impact that these regulations are having on thousands of men and women who live in coal-producing areas. Jobs are being lost. And interestingly enough, when the Environmental Protection Agency issues a regulation, they always talk about the number of hospitalizations they are going to stop, the number of premature deaths that they are going to stop, the cost benefits of their new regulations. But you know what, they never ever look at the cost to the communities where the jobs are being lost.

[Applause.]

Mr. WHITFIELD. And they never look at the cost for the families who lose their health care because they lost their job. And so it is sort of a double standard.

And today at this hearing, we are going to get into all of this. I might also say, I am really not aware of any other administration that when the President of that administration was running for office, and this President when he was in San Francisco campaigning made the comment that—I am paraphrasing a little bit, but he basically said our policies are going to bankrupt the coal industry. And that is precisely what they are doing.

[Applause.]

[The prepared statement of Mr. Whifield follows:]

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Field Hearing on "EPA's Proposed Greenhouse Gas New Source Performance Standard for Utilities and the Impact this Regulation Will Have on Jobs"
July 16, 2012
(As Prepared for Delivery)

This is the twenty-fifth day of the Energy and Power Subcommittee's hearing on the American Energy Initiative. I am pleased to be in Abingdon, Virginia, to hold this field hearing on the Environmental Protection Agency's Greenhouse Gas New Source Performance Standards for utilities.

I am deeply concerned about many things going on in America right now – the weak economy, stubbornly high unemployment, skyrocketing federal spending, Obamacare, and others. But if I were to point to a single Obama administration policy that I want to stop more than anything else, it would have to be the war on coal.

Under President Obama, the Environmental Protection Agency has cranked out one costly anti-coal regulation after another. The agency tells us we need these measures to protect us from global warming, but in my view the cure is considerably worse than the disease.

Everything from mining the coal to using it for power generation to recycling the fly ash into construction materials is under assault. Today, we will discuss the cumulative impacts of all of these rules, and especially EPA's proposed Greenhouse Gas New Source Performance Standards for electric generating units.

It is clear that EPA is overreaching, and in fact, the agency's agenda has faced several setbacks in federal court. For example, in the recent Luminant case, the Firth Circuit Court of Appeals rejected EPA's attempts to disapprove a Texas permit program, and said that the EPA's disapproval was based on "purported nonconformity with three extra-statutory standards that the EPA created out of whole cloth." And then in the recent Spruce Mine decision, a federal judge rejected EPA's unprecedented attempt to invalidate a West Virginia coal mining permit that had been issued many years before. The court called EPA's rationale "magical thinking," and "a stunning power for an agency to arrogate to itself."

Unfortunately, another recent federal court decision upheld parts of EPA's global warming regulatory agenda. But even there, on the critical issue of the so-called tailoring rule, I would like to make clear that the court declined to pass judgment simply because it concluded that none of the petitioners had the standing to challenge it. So as the permitting thresholds under the tailoring rule are ratcheted down in the coming years, it is going to affect hundreds of thousands of farms and small businesses. And indeed, we have heard from farmers and small business owners who fear that the EPA global warming hammer will drop on them in the not-too-distant future.

Overall, we can't rely on the courts to save our economy and preserve our way of life. Congress needs to act to protect coal and those who depend on it.

We have held numerous hearings on this global warming agenda, and we have introduced legislation to stop it. And every step of the way, we have had extensive discussions about the negative impacts on jobs, on energy costs, and on family budgets.

But in Washington, DC, you can't get the first hand perspective of what this war on coal is doing to real people in real communities out in coal country. And that is why we are here in Abingdon today. And I am pleased to be joined by my friend and colleague Morgan Griffith, who represents Abingdon and the rest of Southwest Virginia and who is a strong voice for coal in Congress.

In this part of Virginia, a number of people make their living directly from coal and they are justifiably worried. But what many don't understand is that a coal mine is often the major employer in its community and that the rest of the local economy depends on it. The same is true for coal-fired power plants and manufacturers that rely on coal. Thus, when EPA decides to close a mine or enact rules and regulations that make it prohibitively expensive to continue using coal, the impacts reverberate all across the region.

That's why it is so important to hear directly from those representing the job creators in communities like this and learn how coal figures into the local economy. And it is why I look forward to hearing from the witnesses today. I can assure you that we will carry your message back to Washington.

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Mr. WHITFIELD. Now at this time, I would like to introduce your Congressman, who is doing a great job in Washington, DC. We are very fortunate to have him on the Energy and Commerce Committee and the Energy and Power Subcommittee, and that is Morgan Griffith.

[Applause.]

OPENING STATEMENT OF HON. H. MORGAN GRIFFITH, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

Mr. GRIFFITH. Thank you, Mr. Chairman. If I might first recognize—if I miss any other State legislators, please let me know—but I see Joe Johnson sitting in the front, the dean of the southwest Virginia delegation. Joe, thank you for being with us.

[Applause.]

Mr. GRIFFITH. I do want to begin by thanking the House Energy and Commerce Subcommittee on Energy and Power for holding this important hearing in southwest Virginia.

Under your leadership, Chairman Whitfield, our subcommittee has led the way in fighting burdensome and unreasonable regulations that are hurting the American economy and hurting American jobs. Chairman Whitfield, thank you so much for coming to southwest Virginia so that we might spotlight what is at stake for this region and many other regions throughout the country if these misguided regulations go unchallenged.

This hearing is a great opportunity to put important testimony on the official record. People in our region understand the importance of coal. Simply put, coal powers America. According to the U.S. Energy Administration, coal generates 45 percent of the electricity in the United States and a much higher percentage in our area. We have the largest recoverable reserves of coal in the world. Based on current consumption levels, the United States has enough coal to last us more than 200 years. The National Mining Association estimates that coal accounts for about 94 percent of the Nation's fossil energy reserves.

Make no mistake, the EPA does have a coal on war—a war on coal. They have rolled out an alphabet soup of rules and regulations designed to put coal out of business in the United States. In the last few years alone, the EPA has given us the Utility MACT Rule, Boiler MACT Rule, Cross State Air Pollution Rule, Best Available Control Technology for Greenhouse Gases, New Source Performance Standards for Greenhouse Gases, National Ambient Air Quality Standards, Section 316(b) Cooling Water Intake Structures, Coal Combustion Residuals and Regional Haze Plans, just to name a few. In Washington-speak, these intertwined, insurmountable rules are called the EPA train wreck, and the American economy is what is being run over. I would point you to this chart behind me. Those are a series, if you look starting in 2010, going forward, those are a series of the new regulations, just a few of which I just mentioned.

Sadly, we should not be surprised.In January 2008, then-Senator Barack Obama told the San Francisco Chronicle, "So if somebody wants to build a coal power plant, they can. It is just that we will bankrupt them because they're going to charge a huge sum for all

that greenhouse gas that's being emitted." He further went on in that interview to say, "I'm capping greenhouse gases, coal power plants, you know, natural gas, you name it, whatever the plants were, whatever the industry was, they would have to retrofit their operations. That will cost money. They will pass that money on to consumers." They will pass that money on to consumers. You know who that is? That is you and me, that is every hard-working middle-class American in the United States of America, and the President knows that his policies are passing those costs on to the people of America and apparently does not care.

This field hearing is focused on just one of the many regulations I just mentioned, the New Source Performance Standards, or NSPS, which the EPA proposed on March 27 of this year. The NSPS proposal would essentially prevent any new coal-fired power plant from being constructed. Why? Because the carbon dioxide limits dictated by the NSPS cannot be met, even by the most technologically advanced coal-fired generation facility in the country today. Furthermore, the technology is simply unavailable for any new plant to be able to meet the EPA standards. The EPA is mandating something that does not exist.

If these EPA regulations are allowed to proceed, the impact on direct coal jobs and indirect coal jobs will be devastating. Already this year, three coal companies have announced layoffs in our region—Consol, Alpha Natural Resources and Southern Coal Corporation. Sadly, these layoffs are unlikely to be the last under current regulations.

Those in other industries will not be immune from the EPA's wrath. ACCCE, the American Coalition for Clean Coal Electricity, estimates that retail electricity prices will increase somewhere between 10 and 19 percent in our region due to new EPA rules. Seven percent of the entire U.S. coal fleet, or 24,000 megawatts of coal units, will retire by 2015 due solely or in part to EPA regulations. Higher electricity prices means more expensive products that are less competitive, which leads to fewer products being sold, ultimately leading to fewer jobs and a lower standard of living. Higher electricity prices are another hidden tax—another hidden tax—on the middle-income earners of the United States of America that takes more income away from other necessities. The people hurt the worst are the people who can afford the least—the middle-income worker in the United States. There is much at stake.

I want to thank all of our witnesses for taking their time to be here today. I look forward to their testimony, and Mr. Chairman, I yield back.

[Applause.]

Mr. WHITFIELD. Thank you very much.

And at this time, I will recognize for 5 minutes the gentleman from Tennessee, Mr. Roe, for an opening statement.

OPENING STATEMENT OF HON. DAVID P. ROE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. ROE. I thank the chairman for yielding.

I do not have a prepared statement. I just want to talk to you. I am your next-door neighbor down here from Johnson City, Ten-

nessee and I find it a real privilege, and I thank the chairman and Morgan for inviting me here today.

In my previous life, I was a doctor in Johnson City and the Mayor of Johnson City. And I can tell you as a mayor and a local official, and certainly Representative Johnson, the dean here, can tell you, in dealing with the mandates from on high inside the 395 beltway, became almost a full time job when you looked at ozone, stormwater runoff and just a myriad of things that we had to deal with on a local level.

I want to speak to the miners in here. I grew up in a union household. My dad worked with the United Rubber Workers, he made shoe heels in a factory. In 1973, when I was in Korea in the Army, just a little south of the DMZ, he lost his job to Mexico. I know what it is to have your job exported to Mexico or offshore. And in this country right now, there is a war on jobs, there is a bulls eye on the coal industry and jobs in southwest Virginia and West Virginia and Wyoming and Colorado and the other mining areas of this country. And to me, it is unforgivable. We have one of the greatest resources in the world, and right down the road here, 30 minutes from here, Eastman Chemical Corporation uses 60 carloads of coal every day that you all produce, and a railroad takes to them. There are not just jobs in the coal industry, there are jobs in the rail industry, in the car dealerships. What I do not think this administration understands is it is just not coal mining. The coal miners here and the other people buy cars, they coach Little League teams, they do all of those things. It is your community, and your community is being assaulted right now. We are here to see if we can stop this assault.

It is ridiculous when you bring on a standard that is not attainable by any technology in the world. That means that Secretary Chu specifically, in the Energy Department, has lined you up to take the coal industry out. Six weeks ago, I was in China on a trip and viewing things there. They are opening one new coal-fired power plant every week. And let me tell you, if we do not have inexpensive energy in this country, we cannot compete. We have an opportunity now in this country to be energy independent in the next 8 years, it is unbelievable, if we had a coherent energy policy in this country; and we do not.

Let me tell you why it is very personal to me. I was a young Army Captain just south of the DMZ in Korea in 1973 when we had an oil embargo. The oil was cut off from the Middle East, and guess what happened, we only got heat 3 hours a day because we needed the fuel to keep our tanks running, our Cobra helicopters up and serviceable, our Hueys running, and our equipment running. It is not only jobs, it is national security, that is what we are talking about.

And we need to use an all-of-the-above approach, everything we have. Coal is a very important part of it, along with natural gas and along with conservation and all those things. But this particular administration has picked winners and losers instead of using the resources that we have. And what we need in Washington, DC, is some good old southwest Virginia common sense, is what we need in Washington, DC.

[Applause.]

Mr. ROE. Morgan, when you put this chart up, I thought that was the healthcare bill for a minute. It looks exactly the same.

[Laughter.]

Mr. ROE. I have studied it a little more than I have that, but it looks exactly the same to me, all the little boxes and things going to it with a bunch of bureaucrats.

I know Morgan, it is only his first term, it is only my second term, and Ed has been here awhile. We look to Ed as a leader for us because it is very frustrating to me to be in a place that—I have got to tell you, there is something wrong with the oxygen blend inside 395, I can tell you, the beltway around Washington.

A young woman came to my office not long ago, Donna Kessinger, who is going to speak in just a minute, she is a miner, and made a very big impression on me, and I asked that she be on this panel. And Morgan, thank you for having her, because she tells a story like no one else can about taking care of your family. That is what this is about, and about jobs.

Mr. Chairman, and Morgan, thank you very much and I know we have a distinguished panel. I am excited to hear what they have to say.

[Applause.]

Mr. WHITFIELD. Thank you very much, Dr. Roe.

Now I would like to introduce our first panel because you know all of us are affected one way or the other by these regulations, whether it is price increases, whether it is loss of a job, or whatever. But the witnesses that are going to be testifying this morning, they deal with this every single day trying to comply with these regulations and so we are fortunate to have these witnesses today and I would like to introduce them at this time.

The first one is Mr. Tom Farrell, who is Chairman, President and CEO of Dominion Resources, and we appreciate you being here. The second one is Mr. Paul Vining, who is President of Alpha Natural Resources. The third is John Voyles, Jr., who is Vice President, Transmission/Generation, Louisville Gas & Electric and Kentucky Utility Energy Company. And as Phil said, the third—I mean the fourth—is Donna Kessinger, who is a mechanic electrician at Cliffs Natural Resources and a member of United Mine Workers, Local 1713, and she works in the mine.

So at this time, I would like to start with Mr. Farrell and we will recognize Mr. Farrell for 5 minutes for his opening statement.

STATEMENTS OF THOMAS F. FARRELL II, CHAIRMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, DOMINION RESOURCES, INC.; PAUL H. VINING, PRESIDENT, ALPHA NATURAL RESOURCES, INC.; JOHN N. VOYLES, JR., VICE PRESIDENT, TRANSMISSION AND GENERATION SERVICES, LG&E AND KU ENERGY, LLC; DONNA KESSINGER, MECHANIC ELECTRICIAN, CLIFFS NATURAL RESOURCES, UMWA LOCAL 1713.

STATEMENT OF THOMAS F. FARRELL II

Mr. FARRELL. Good morning, Mr. Chairman, Congressman Griffith and Congressman Roe; thank you for the opportunity to join you today.

My comments summarize Dominion's views on the Environmental Protection Agency's proposed performance standards for greenhouse gas emissions for new coal and natural gas power stations. It is our view that the rule needs to be revised in four fundamental areas.

First, EPA should set different standards for combined cycle gas and advanced coal stations.

Second, the standard for new coal-fired plants should be at least 2,000 pounds of carbon dioxide per megawatt-hour.

Third, EPA must reaffirm that existing facilities installing pollution control equipment will not be regulated as "new" units.

Fourth, the standard for combined cycle gas facilities should be no lower than 1100 pounds of carbon dioxide per megawatt-hour.

It is important that this rule for new generating facilities also gives cause for concern about the direction the agency may take on expected regulation of greenhouse gas emission limits for existing facilities.

The utility industry is transitioning to newer, lower-emitting advanced coal and natural gas power stations. Renewable energy sources, demand side management programs, smart grid technologies are playing a growing role in meeting energy demand. The foundation of America's electric generating fleet, however, continues to rely on baseload power supplied by coal, nuclear, hydro and natural gas.

Our concern is that for all new fossil fuel generating stations, EPA proposes a single emissions limit for greenhouse gases of 1,000 pounds per megawatt-hour. This limit can be met by one fuel source only—natural gas—using one type of generation technology only—combined cycle.

In the history of implementing the Clean Air Act, the Environmental Protection Agency has never set a single standard for all power plants. As a result, the proposed standard would eliminate new coal-fired generation, restrict the use of a major baseload fuel, and result in an undesirable national policy of abandoning coal.

This outcome, however, is not mandated by the Clean Air Act and it can be avoided. The law allows EPA to set separate standards for each fuel type. The law allows a separate standard based on the best emission reduction technology for each fuel type. The law allows EPA to set a standard based on actual emissions data instead of vendor specifications. Dominion, along with many others, has urged the agency to exercise this discretion and make these modifications to the rule.

A single standard is not only unwarranted, it threatens fuel diversity, which is critical for providing reliable, affordable electricity. If we remove coal from our energy future, we will undermine our supply base and ultimately consumers may be more exposed to unpredictable fuel prices. EPA states that the rule does not foreclose the possibility of new coal, as long as they are built with carbon capture and storage technologies that are installed on the plant by its 11th year of operation. There is no demonstrated commercially available carbon capture and storage technology available today.

A report issued last month by the Congressional Budget Office confirms our view that there remain legal, regulatory, and tech-

nical obstacles to deploying CCS on a utility scale. CBO found that, "Integrating CCS technology into the production of electricity generation at coal-fired power plants appears to be more demanding technically than, for example, the use of CCS in the production of natural gas." The report concludes that without increased funding or other incentives to encourage investments, Federal support for CCS will have little impact on technology deployment or reducing the cost of electricity from CCS-equipped coal plants. Achieving widespread deployment depends on a comprehensive Federal strategy that includes sustainable funding and a resolution of permitting and liability issues.

Simply put, performance standards from EPA will not succeed at forcing the adoption of CCS technologies. EPA should abandon that approach and set a specific standard for new advanced coal-fired plants of at least 2,000 pounds of C02 per megawatt-hour.

It is also important to understand that the impact of the proposed rule extends beyond just new plants. It has the potential to create significant uncertainty about the future of existing plants. Today, the industry, our industry, is planning to invest billions of dollars by 2015 or 2016 to retrofit hundreds of facilities to comply with the new pollution rules. EPA must make clear that upgrading these facilities will not change the regulatory status from existing sources to new sources. Requiring these plants to meet the new gas combined cycle standard would in all likelihood leave only one compliance option—closure of the plant.

Last week our company, Dominion, began full commercial operation of our Virginia City Hybrid Energy Station, a new nearly 600-megawatt advanced coal station in Wise County, about 30 miles to our northwest. This $1.8 billion project employed nearly 2,000 people at the height of construction. It will generate more than $440 million annually in tax and other revenues for Wise County and employ more than 100 people. The station has been outfitted with all available pollution control equipment to achieve major reductions in sulfur dioxide, nitrogen oxides, particulate matter, and mercury. Our testing of mercury emissions indicates removal rates well in excess of the 90 percent required by the Mercury and Air Toxic Standard Rule. Any future greenhouse gas standard for existing plants must ensure that plants like this will be able to continue to operate.

We know that the next step for EPA is to propose greenhouse gas standards for existing facilities. It has said only that it will do so "at the appropriate time." I expect this will happen either by EPA's own decision or forced through litigation. Most importantly, the new source proposal must not be the model for existing or modified source standards.

Mr. Chairman, this concludes my remarks this morning. I have submitted a more detailed written statement that I ask to be included in the hearing record. And I will be happy to answer any questions that you may have.

Mr. WHITFIELD. Well, thanks very much, Mr. Farrell, we appreciate that.

[Applause.]

[The prepared statement of Mr. Farrell follows:]

Testimony of Thomas F. Farrell II
Chairman, President & CEO – Dominion
Before the House Committee on Energy and Commerce
Subcommittee on Energy and Power
Abingdon, Virginia
July 16, 2012

Good morning, Chairman Whitfield, Congressman Griffith and Members of the Energy and Power Subcommittee. Thank you for the opportunity to discuss Dominion's views on the Environmental Protection Agency's proposed performance standards for greenhouse gas emissions from new fossil-fueled power stations.

It is our view that the rule should be revised in four fundamental areas. First, EPA should set different standards for combined cycle gas and advanced coal facilities. Second, the standard for new coal-fired plants should be at least 2,000 pounds of carbon dioxide (CO2) per megawatt-hour. Third, EPA must reaffirm that existing facilities installing pollution controls will not be regulated as "new" units. Fourth, the standard for combined cycle gas facilities should be no lower than 1,100 pounds of carbon dioxide (CO2) per megawatt-hour.

Further, this rule for new generating facilities also gives because for concern about the direction the Agency may take on the expected regulation of greenhouse gas emission limits for existing facilities, as I will explain in a moment.

For all new fossil-fueled generating stations, EPA proposes a single emissions limit for greenhouse gases of 1,000 pounds of carbon dioxide (CO2) per megawatt-hour. This CO2 emissions limit can be met by one fuel only – natural gas – using one type of generating technology – combined cycle. This same emissions limit, however, also applies to new coal-fired power stations. For this reason, the proposed standard would

eliminate new coal-fired generation units and would restrict the use of a major base load fuel.

As you know, there is currently no demonstrated, commercially available carbon capture and storage (CCS) technology that can be installed on a coal plant to comply with this standard. The adoption of EPA's proposed standard will lead, in our view, to an undesirable national policy: abandoning coal, one of our most abundant natural resources.

This outcome, however, is not mandated by the Clean Air Act, and it can be avoided. EPA has full authority under the law and precedents of past policies to set performance standards that ensure the continued viability of all reliable and affordable fossil fuels, including coal.

The provisions in the Clean Air Act governing the setting of performance standards for new plants are flexible. This standard is defined as one that "reflects the degree of emission limitation achievable through the application of the best system of emission reduction which ...taking into account cost ... the Administrator determines has been adequately demonstrated."

In past performance standards developed by EPA for other pollutants; emission limits have been set that could be achieved by existing pollution control equipment installed on coal, oil or natural gas facilities.

The law allows EPA to set separate standards for each fuel type – coal, oil and natural gas.

The law allows a separate standard based on the best emission reduction technology – for each fuel type.

The law also allows EPA to set a performance standard based on actual emissions data instead of vendor design projections.

These essential features of the Clean Air Act are not found in this rule. EPA has discretion to make these modifications in the final rule. Dominion, along with others, has urged the Agency to do so. Standards can be set to reduce emissions and stimulate the deployment of advance generating technologies – without eliminating a major domestic fuel source.

Mr. Chairman, the industry has offered clear and concise comments detailing corrections needed to the proposed rule. Setting emission limits under the New Source Performance Standard program is a well understood and enforced section of the Clean Air Act.

It is important to note that in the history of Clean Air Act implementation, EPA has never set a single standard for all power plants based on an emissions limit that can be achieved by one fuel only and by one technology with the lowest emissions rate. Performance standards have been set routinely for conventional pollutants. Most recently, EPA set new source standards for sulfur dioxide (SO2), nitrogen oxide (NOx) and mercury in the Mercury and Air Toxics Standard (MATS) rule. In response to comments on the MATS rule, EPA acknowledged that it is not appropriate to base standards on the use of natural gas alone because they are "neither technically nor economically achievable for a coal-fired EGU."

This well-established regulatory approach should be followed in setting standards for CO2 limits at new, modified and existing facilities. A single standard is not only

unwarranted, it also threatens fuel diversity, which is critical for providing reliable, affordable electricity.

To be sure, the electric industry is transitioning to newer, lower-emitting advanced coal and natural gas technologies. Many existing facilities are being retired, either because of age, market trends or regulatory requirements.

Renewable energy sources, demand-side management and smart grid technologies are assuming an increasingly important role in meeting energy demand. But the heart and soul of the industry – base load power generation – continues to be supplied by our coal, nuclear, hydro and natural gas plants. The challenges to siting and permitting new nuclear and hydro facilities are well documented. If we remove coal from our energy future, we will undermine the diversity of our supply base, and ultimately, consumers may be more exposed to unpredictable natural gas prices.

It would be shortsighted to assume that the time will never come when new, advanced coal-fired facilities will be economically and environmentally desirable. We already have experienced the unintended consequences of a national policy that prohibited the use of available fuels for power generation. The history of the industry provides ample evidence that fuel diversity has a direct and important impact on the affordability and reliability of electric service.

EPA states that the proposed rule does not foreclose the possibility of new coal-fired generation. The Agency says new coal plants can be built if carbon capture and storage technologies are incorporated now or at least by the 11th year of operation. Even though EPA acknowledges that CCS technology is not commercially available at

this time, it seems clear that the Agency's intent is to use this new rule to force CCS into the marketplace.

However, this so-called alternative compliance is not a viable option, nor does it meet the requirements of the Clean Air Act which provides that any performance standard must be shown to be achievable.

According to a Congressional Budget Office report issued last month on "Federal Efforts to Reduce the Costs of Capturing and Storing Carbon Dioxide, "integrating CCS technology into the production of electricity generation at coal-fired power plants appears to be more demanding technically than, for example, the use of CCS in the production of natural gas." DOE hopes that the $7 billion available for CCS demonstration and deployment projects will reduce costs and prove the feasibility of the technology on a commercial scale. The report concludes, however, that without increased and sustained funding or other incentives to encourage investment in CCS, federal support will have little impact on technology deployment or reducing the costs of electricity from CCS-equipped coal plants.

The CBO report confirms our views that there remain legal, regulatory and technical obstacles to deploying CCS on a utility scale that will be overcome only with a comprehensive federal strategy that includes funding, permitting and liability protections.

Simply put, performance standards will not succeed at forcing the adoption of CCS technologies. The CCS requirement will create an insurmountable hurdle to obtaining financing and securing public utility commission approval for new coal stations. Without assurance that a new facility would be able to operate for its expected lifespan of 30

years or more, EPA's requirement that CCS technology would have to be installed and meet a specific standard within 10 years would jeopardize project financing.

EPA should abandon this approach and set a specific standard for new, advanced coal-fired facilities: at least 2,000 pounds of CO2 per megawatt-hour.

It is also important to understand that the impacts of the proposed rule extend beyond just new plants. It has the potential to create significant uncertainty about the future of existing coal-fired plants. Utilities today are planning to retrofit or repower hundreds of coal plants

to comply with the new MATS rule and the Cross-State Air Pollution Rule (CSAPR) by 2015 or 2016.

By EPA's own estimates, 85 gigawatts of scrubbers, 102 gigawatts of baghouses and other control systems will have to be installed on the existing coal fleet – requiring billions of dollars of investment that can only be recovered by the continued operation of these plants well into the future.

EPA must make clear that upgrading these facilities will not change their regulatory classification to "new" sources from "existing" sources. A "new" source designation would require these coal units to meet the natural gas performance standard of 1,000 pounds CO2 per megawatt-hour, or install CCS technology within 10 years. In all likelihood, the only practical compliance option would be closing the plant – even though major capital investments had just been made. In short, EPA's final rule must remove the regulatory uncertainty that clouds the future of these facilities.

EPA can resolve this issue by reaffirming the Act's pollution control project exemption in the new source performance standard program. That does not mean these units will be

exempt from future greenhouse gas regulations. These upgraded units will be regulated when EPA issues the standards for existing sources in the future.

Last week Dominion began full commercial operation of our Virginia City Hybrid Energy Center – a new 585-megawatt advanced coal-fired station in Wise County. At the height of construction activity, this $1.8 billion project employed nearly 2,000 people. According to an economic impact study conducted by Virginia Tech University, the station will generate more than $440 million annually in tax revenues and other benefits for Wise County, and provide employment for 100 people.

The facility employs a circulating fluidized bed technology that by design reduces emissions of SO2 and NOx. It has been outfitted with dry scrubbers and additional NOx controls to achieve further reductions in these pollutants. Other state-of-the-art controls for particulate matter and mercury have been installed. Our early testing and monitoring of mercury emissions indicate removal rates well in excess of the 90 percent required by the Mercury and Air Toxics Standard rule. Any future greenhouse gas standard for existing plants must ensure that it can be achieved at our newer, highly-efficient coal-fired facilities.

Mr. Chairman, much of my testimony has focused on the impacts of the proposed rule on future and existing coal stations. However, there are also critical issues affecting natural gas combined cycle facilities. Although EPA maintains the proposed standard is consistent with efficient natural gas combined cycle units, there are significant uncertainties about whether the standard can be met by all plants under all operating conditions. The proposed standard is based on vendor design specifications – not on actual emissions data from the newer combined-cycle plants in today's fleet.

Actual emissions data indicate that the standard for new gas-fired combined-cycle units should be no lower than 1,100 pounds of CO2 per megawatt-hour. This standard ensures that all new facilities can comply under all operating conditions. It would accommodate periods of facility startup and shutdown when emissions levels vary. This cycling occurs in response to demand and to the integration of renewable resources into the grid. EPA has recognized these different operating conditions in other rules by establishing best management practices during startup and shutdown times instead of using numeric limits.

EPA's proposed rule does have several positive features that should be retained in the final rule. The rule does not cover simple cycle combustion turbines because EPA correctly recognizes that these are not base load facilities and typically operate to meet times of peak demand. EPA also excluded facilities with biomass-fired boilers while ongoing analysis of the greenhouse gas impacts of these facilities is underway. Further, we believe it is appropriate that the rule focuses on CO2 emissions and does not propose separate standards for methane and nitrous oxide as they comprise minimal emissions levels.

We know that the next step for EPA is to propose greenhouse gas performance standards for existing facilities. EPA has only said they will do so "at the appropriate time," but I expect this will happen, either by EPA's own decision or through litigation. Most importantly, the proposal for new sources must not become the model for the existing or modified source standard.

States will have a more direct role in determining existing source compliance by developing state implementation plans. EPA must allow states and the industry the

flexibility to use every available tool to meet the existing source standard once it is set. As I have already emphasized, EPA must set different standards for different fuel types. Energy efficiency improvements will play a large role in emissions reductions, but EPA should avoid requiring specific numeric reductions.

Achieving emissions reductions through efficiencies are very unit specific and are based on design, fuels, and operating conditions. As such, EPA should set work practice standards or best operating practices for each type of generating facility – rather than a one-size fits all approach.

Equally important, energy efficiency projects used to reduce CO2 emissions must not trigger new source review. For years, EPA's policies on new source review have hindered modifications to existing facilities. It is time for EPA to address this problem by relieving energy efficiency projects of the uncertainties that result from new source review.

In addition, states and utilities must be allowed to average emissions among sources as part of any existing source compliance regime. This would acknowledge the impact of retired units and ensure that the same level of emissions reductions would occur cost-effectively.

In conclusion, Mr. Chairman, it is clear that EPA can and should significantly modify the proposed new source standard to address these issues. In doing so, the Agency would support the transformation of the electricity generating fleet to advanced coal and gas technologies and, at the same time, achieve desired reduction in CO2 emissions.

Thank you again for the opportunity to join you today. I would be pleased to answer any questions you may have.

Mr. WHITFIELD. And our second witness this morning, as I said earlier, is Paul Vining, President of Alpha Resources, and you are recognized for 5 minutes, Mr. Vining.

STATEMENT OF PAUL H. VINING

Mr VINING. Thank you. Good morning to everybody. Thank you, Chairman Whitfield, and members of the subcommittee for the opportunity to testify today on an issue of vital importance to the survival of our coal industry. I ask that my full written testimony be placed into the committee record.

As this committee is all too familiar, these are tough times in coal country. Alpha employers alone have reduced our workforce by over 750 hard-working men and women in recent months, and many of our industry peers have made similar workforce reductions. Mines are being idled, jobs are being lost, and as a result, many Appalachian communities are facing a reduced tax base upon which to serve their citizens.

Unfortunately, the current administration, and particularly the United States Environmental Protection Agency, continues to significantly and artificially influence our domestic electricity market through regulatory actions that hinder both the production and the use of America's abundant coal resources. I have heard some members of this committee and the broader Congress refer to these regulatory actions as the war on coal.

While there is no question that our industry is being detrimentally impacted, what we are experiencing is a war on affordable electricity, a significant building block of American prosperity. And it will be American consumers, small businesses, and an already struggling domestic manufacturing sector that will pay the price for years ahead.

On March 27, the EPA released yet another proposal that will directly impact what fuel sources are allowable for use by our domestic utility sector. Commonly referred to as the New Source Performance Standard for Greenhouse Gases, the proposal sets output base limits on carbon dioxide from new fossil-fuel fired power plants of 1,000 pounds of C02 per megawatt-hour. This is a standard the EPA estimates could be met without any difficulty by approximately 95 percent of the natural gas combined cycle units built since 2005, as well as all new natural gas combined cycle units. In contrast, new conventional coal-fired generating units would be capable of meeting this new standard only by employing the use of highly expensive carbon capture and storage technology.

Interestingly and importantly, simple cycle or peaker natural gas units, which typically are used as baseload power to support renewable energy facilities and which generally have a significantly higher C02 emissions rate than their combined cycle counterparts, are exempted from the proposed rule.

In its Regulatory Impact Analysis, the EPA states that this proposed rule demonstrates to other countries that the United States is taking action to limit greenhouse gases from its largest emission sources. However, the agency also states that "the proposed standard will result in negligible C02 emission changes, energy impacts, quantified benefits, costs, and economic impacts by 2020." For the sake of clarity, let me state it again, the EPA's own analysis as-

sumes that this proposal will neither reduce domestic C02 emission levels, nor impact the economy in any way. So what is the purpose of this standard?

EPA asserts that this proposed rule will "contribute to downward pressure on CCS costs by shifting the regulatory landscape towards CCS."

By statute, a new NSPS is required to reflect application of the best system of emission reduction that has been adequately demonstrated, taking into account costs, environmental impacts, and energy requirements. As a technology still in its infancy, CCS has not be adequately demonstrated, nor used in any widespread fashion.

Until full commercial deployment is realized, power companies are extremely unlikely to spend $2 billion or more for a new coal-fired power plant whose Federal regulatory compliance depends entirely on the effectiveness of an unproven technology. Put more simply, the proposed standard will not contribute to downward pressure on CCS costs, but instead will all but stall that investment.

After justifying the rule as consistent with the President's goal of reducing greenhouse gases, but then admitting that the proposal will fail to accomplish any such reduction, EPA fails to rationally and reasonably explain the net effect of the proposal to effectively prohibit the construction of new coal-fired electric generation capacity in the U.S.

In setting this proposed NSPS for greenhouse gases, the EPA decided to break from all past agency practice by establishing new fuel-neutral standards instead of one that recognizes the difference between fuel types. EPA attempts to justify this departure as warranted in light of both the emissions benefits and the changed economic circumstances, notably the lower prices of natural gas due to technological development and recent discoveries that have boosted recoverable reserves. In other words, EPA believes that historic price volatility aside, the availability and low current market price of natural gas justifies the elimination from America's fuel mix.

In conclusion, this greenhouse gas NSPS fails to adhere to the statutory limitation of adequately demonstrated emissions control system, acknowledges its failure to reduce global C02 emissions, and unabashedly admits its preference toward natural gas over coal as a domestic fuel source. I would respectfully assert that now is simply not the time to handicap our own economic health for no discernible environmental gain, while our international competitors continue to strive for prosperity.

Thank you for the opportunity to testify.

[Applause.]

[The prepared statement of Mr. Vining follows:]

Testimony of Paul H. Vining

President

Alpha Natural Resources, Inc.

Before the Subcommittee on Energy and Power

Committee on Energy and Commerce

U.S. House of Representatives

Field Hearing on "The American Energy Initiative" and

The proposed Greenhouse Gas New Source Performance Standard (NSPS)

July 16, 2012

Thank you, Chairman Whitfield, Ranking Member Rush, and Members of the Subcommittee for the opportunity to testify today on an issue of vital importance to the survival of our domestic coal industry. I would also like to thank my home Congressman, Representative Morgan Griffith, for his interest and leadership in highlighting the impacts of this Administration's regulatory agenda on southwest Virginia and other coal-producing communities. I ask that my full written testimony be placed into the committee record.

My name is Paul Vining and I serve as President of one of America's leading coal companies, Alpha Natural Resources, Inc. I have previously served as Alpha's Chief Commercial Officer and, before that, held various other executive leadership positions with a number of Alpha's

industry peers. Alpha Natural Resources' affiliates collectively rank as America's second-largest coal producer by revenue and third-largest by production. Alpha is also the nation's largest supplier of metallurgical coal used in the steel-making process and is a major supplier of thermal coal to electric utilities and manufacturing industries. Alpha was formed in 2002. Ten years later, at the beginning of 2012, Alpha's affiliates operated over 150 coal mines, employed a workforce of approximately 14,000 men and women, and served more than 200 customers on five continents. We are a company accustomed to growing.

As this committee is all too familiar, these are tough times in coal country. Historically low natural gas prices, an unseasonably warm winter, and announcements of premature coal-fired power plant retirements due to burdensome federal regulations have combined to create a sustained weakness in the domestic steam coal market. Alpha employers alone have reduced our workforce by over 750 hard-working men and women in recent months, and many of our industry peers have made similar workforce reductions. Mines are being idled, jobs are being lost, and as a result, many Appalachian communities are facing a reduced tax base upon which to serve their citizens.

This is not the first downturn the coal industry has had to weather. Energy markets are cyclical. Natural gas prices are historically volatile and are certain to increase. Seasons change. As electricity demands increase, suppliers react, and the market stabilizes. That is how it's supposed to work. Unfortunately, the current Administration – and particularly the U.S. Environmental Protection Agency (EPA) – continues to significantly and artificially influence our domestic electricity market through the promulgation and enforcement of regulations and

other agency actions that hinder both the production and use of America's abundant coal resource.

As with any political action, there is a wide spectrum of opinions as to the true economic impacts these rules will have. When estimating the impacts on our utility sector of the recently finalized Mercury and Air Toxics Standards (MATS) rule, commonly referred to as Utility MACT, for example, the EPA predicted that less than 5,000 megawatts of electric generation capacity would be retired as a result of the rule.[1] The real-world impacts have been much more severe, with the utility sector already announcing over 25,000 megawatts of premature, coal-fired power plant retirements tied directly to the Utility MACT and other recent EPA air emission rules – a five-fold increase over EPA estimates.

The effect of these rules is concerning enough when trying to predict how that 25,000 megawatts of electric generation being taken offline will impact our nation's power grid. In its "2011 Long-Term Reliability Assessment" issued last November, the North American Electric Reliability Corporation stated that "Existing and proposed environmental regulations in the U.S. may significantly affect bulk power system reliability." However, the increased regulatory burden becomes even more worrisome when considering the expected loss of 180,000 to 215,000 jobs in 2015, GDP losses totaling as much as $112 billion, and reductions of total household disposable income by as much as $71 billion.[2]

[1] "Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards," Environmental Protection Agency; December 2011.
[2] "An Economic Impact Analysis of EPA's Mercury and Air Toxics Standards Rule," NERA Economic Consulting; March 1, 2012.

I have heard some Members of this committee and the broader Congress refer to the regulatory actions of this Administration as "the war on coal." While there is no question that our industry is being detrimentally impacted, I would respectfully assert that this is not just a war on coal. What we are experiencing is a war on affordable electricity, a significant building block of American prosperity, and it will be American consumers, small businesses, and an already struggling domestic manufacturing sector that will pay the price in the years ahead.

On March 27th, the EPA released yet another proposal that will directly impact what fuel sources are allowable for use by our domestic electric utility sector. The "Standards of Performance for Greenhouse Gas Emission from New Stationary Sources: Electric Utility Generating Units," or more commonly referred to as the New Source Performance Standards (NSPS) for greenhouse gases, sets output-based limits on carbon dioxide (CO2) emissions from new fossil fuel-fired power plants. More specifically, under the proposed rule, new fossil-fuel generating facilities would be required to meet an output-based NSPS of 1,000 pounds of CO2 per megawatt-hour (lb. CO2/MWh). This is a standard the EPA estimates could be met without any additional emissions controls by approximately 95% of the natural gas combined-cycle (NGCC) units built since 2005, as well as all new natural gas combined-cycle plants.

In contrast, new, conventional coal-fired generating units would be capable of meeting this new standard only by employing the use of highly expensive carbon capture and storage technology (CCS). Interestingly and importantly, simple-cycle or "peaker" natural gas units – which are often used as baseload power to support renewable energy facilities and which generally have a significantly higher CO2 emissions rate than their combined-cycle counterparts – are exempted

from the proposed rule. In other words, only new coal-fired facilities would be put under any regulatory compliance pressure by the proposed NSPS.

In its Regulatory Impact Analysis (RIA) for the proposed standard,[3] the EPA justifies the proposal by reference to its Endangerment and Cause or Contribute Findings for Greenhouse Gases, which states that "the anthropogenic buildup of GHGs in the atmosphere is very likely the cause of most of the observed global warming over the last 50 years." Further, the RIA asserts that "CO2 is a [greenhouse gas] and power plants are the country's largest stationary source emitters of [greenhouse gases]." The RIA further states that "this proposed rule is consistent with the President's goal to ensure that 'by 2035 we will generate 80 percent of our electricity from a diverse set of clean energy sources…" and "…demonstrates to other countries that the United States is taking action to limit GHGs from its largest emissions sources."

Based on these statements, an observer could logically assume that the proposed standard will result in a decrease of greenhouse gas emissions from the U.S. electricity sector. Again citing the EPA's RIA, however, the agency states that it "does not project that any new coal capacity without federally-supported CCS will be built… due in part to the low cost of base load [natural gas combined-cycle] capacity,…. relatively low growth in electricity demand, and use of energy efficiency and renewable energy resources." In turn, "EPA anticipates that the proposed [standard] will result in negligible CO2 emission changes, energy impacts, quantified benefits, costs, and economic impacts by 2020."[4] For the sake of clarity, let me state that again: the

[3] Regulatory Impact Analysis for the Proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units, Environmental Protection Agency; March 2012
[4] Ibid.

EPA's own analysis assumes that this proposal will neither reduce domestic CO2 emissions levels long-term, nor impact the economy in any way. So what is the purpose of the standard?

EPA asserts that this proposed rule will "contribute to downward pressure on CCS costs by shifting the regulatory landscape towards CCS."[5] As Assistant Administrator for Air and Radiation Gina McCarthy recently stated in her testimony to your subcommittee on June 29th, EPA claims the proposed NSPS also "eases" the technological burden imposed on coal by proposing "an alternative compliance pathway, whereby units implementing CCS could comply by meeting the standard on average over the course of a 30-year period."

EPA's position on how to advance the development of CCS is directly contrary to the recent recommendations of the International Energy Agency (IEA),[6] which advocates that the goal of CCS incentive policy at this time needs to focus on commercial scale trials to develop the technology and lower its costs. It further warns that initial policy efforts should not seek "to make emissions reductions for their own sake," asserting that "when the technology is immature, it is not credible to force emissions reductions through high carbon prices." Since a mandatory performance standard is at least equivalent to setting high carbon prices, IEA's assessment in effect dubs the EPA proposal "not credible." What EPA therefore recognizes in its alternative compliance option, but fails to adequately address in the proposed standard, is that CCS is far from a commercially available technology.

[5] Proposed rule
[6] "Policy Strategy for Carbon Capture and Storage," International Energy Agency; January, 2012

By statute, a new NSPS is required to reflect the application of the "best system of emission reduction" that "has been adequately demonstrated," taking into account costs, environmental impacts, and energy requirements. With limited exceptions, the statute forbids EPA from expressly requiring any new or modified sources to adopt a particular control technology. Instead, EPA must establish a performance standard (e.g., a maximum emissions rate) and allow sources to determine how best to meet that standard.[7] As a technology still in its developmental infancy, CCS has not been "adequately demonstrated," nor used in any widespread fashion.

While there are a number of CCS demonstration projects in the design, construction or operation phase in the United States, all are attached to plants that are much smaller than a 1,700 megawatt coal-fired power plant, generally between 500 and 1,000 MW. At its current stage of development, CCS is also prohibitively expensive, siphoning between 20 and 30 percent of a power plant's energy and adding between 50 and 100 percent to the price of electricity.[8]

Until full commercial deployment is realized, power companies are extremely and understandably unlikely to spend $2 billion or more for a new coal-fired power plant whose federal regulatory compliance depends entirely on the effectiveness of an unproven technology. EPA's 30-year averaging provision doesn't adequately address this investment risk, particularly without manufacturer guarantees for the yet-to-be-deployed technology. As such, this NSPS rule sets an insurmountable standard for advanced coal-fired facilities and installs a level of compliance risk that will inhibit and preclude any large-scale attempts to pursue coal-with-CCS in the first place.

[7] "EPA Proposes Greenhouse Gas Emission Limits for New Electric Generating Units," VanNess Feldman summary; March 29, 2012

[8] "Debate rages over EPA carbon rule's impact on CCS development," *Greenwire*; May 2, 2012

This has been recognized by the IEA,[9] which has concluded that commercial scale testing and demonstration must occur prior to implementing policies that seek to force CCS deployment. The EPA "cannot simply state 'that CCS has been demonstrated to be technologically achievable,' or that 'CCS is feasible and sufficiently available.'" [10] Basic economics and utility generation fleet planning dictate that the lowest-cost option is usually the one pursued and/or approved. Put more simply, the proposed standard will not, as the EPA claims, "contribute to downward pressure on CCS costs," but instead, will all but stall that investment.

In February of 2010, President Obama issued a formal Presidential Memorandum entitled "A Comprehensive Federal Strategy on Carbon Capture and Storage." In announcing the initiative, the President proclaimed that "My Administration's new CCS strategy will pave the way for this energy transition by identifying and removing barriers to rapid commercial deployment and by providing greater legal and regulatory clarity."[11] In point of fact, EPA's proposed NSPS for greenhouse gases has arguably created, for no environmental benefit, the biggest single hurdle that CCS development has faced to date. After justifying the rule as consistent with the President's goal of reducing greenhouse gases, but then admitting that the proposal will fail to accomplish any such reduction, EPA then fails to rationally and reasonably explain the net effect of the proposal – to effectively prohibit the construction of new coal-fired electric generation capacity in the United States.

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[9] "Policy Strategy for Carbon Capture and Storage," International Energy Agency; January, 2012

[10] Comments of Coal Utilization Research Council on EPA's Proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units, Docket ID No. EPA-HQ-OAR-2011-0660, Coal Utilization Research Council; June 25, 2012.

[11] http://www.whitehouse.gov/the-press-office/presidential-memorandum-a-comprehensive-federal-strategy-carbon-capture-and-storage

Just two days after the EPA released its greenhouse gas NSPS proposal, EPA Region 1 Administrator Curt Spalding explained to a Yale University audience the real purpose of this proposal. He stated, and I quote:

> *"Lisa Jackson has put forth a very powerful message to the country. Just two days ago, the decision on greenhouse gas performance standard and saying basically gas plants are the performance standard which means if you want to build a coal plant you got a big problem. That was a huge decision. You can't imagine how tough that was. Because you got to remember if you go to West Virginia, Pennsylvania, and all those places, you have coal communities who depend on coal. And to say that we just think those communities should just go away, we can't do that. But she had to do what the law and policy suggested. And it's painful. It's painful every step of the way."*

Notwithstanding the contradiction between that statement and the EPA's official Regulatory Impact Analysis of no economic impacts, we agree with the regional administrator that this rule results in all pain, and no gain. The Administration is effectively, and sometimes surprisingly openly, enacting a slate of policies that prohibit the use of coal. Granted, as a coal company, Alpha has a self-interest in the continued use of our product. As an American citizen, and one very familiar with the energy needs of our nation, I also have real concerns with any policy that reduces our ability to economically utilize our own abundant domestic resources or limits our access to reliable and affordable electricity.

In setting this proposed NSPS for greenhouse gases, the EPA decided to break from all past agency practice by establishing a new, fuel-neutral standard instead of one that recognizes the difference between fuel types in terms of cost, available technology, and standard achievability.[12] Within its April 13, 2012 Federal Register notice relating to the NSPS proposal, EPA attempts to justify this action. Specifically, the agency states that "[It] consider[s] this departure warranted in light of both the emissions benefits and the changed economic circumstances, notably the lowered prices of natural gas due to technological development and recent discoveries that have boosted recoverable reserves." In other words, the EPA believes that, historic price volatility aside, the availability and low current market price of natural gas justifies the elimination of coal from America's fuel mix.

Such an assumption is both economically short sighted and politically naïve regarding the control of global CO2 emissions. A recent IEA report[13] on the "dash to gas" argues that international goals to mitigate global mean temperatures "cannot be accomplished through greater reliance on natural gas alone." IEA concludes that a number of measures will be necessary, including "broad application of new low carbon technologies, including power plants and industrial facilities equipped for [CCS]." Again, by suffocating private sector investments to help develop CCS to economic scale, the Administration is jeopardizing whether CCS will ever be commercialized at all.

[12] Comments of the National Mining Association on EPA's Proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units, Docket ID No. EPA-HQ-OAR-2011-0660, National Mining Association; June 25, 2012

[13] http://www.worldenergyoutlook.org/goldenrules/

In conclusion, this greenhouse gas NSPS fails to adhere to the statutory limitation of adequately demonstrated emissions control systems, acknowledges its failure to reduce global CO2 emissions, and unabashedly admits its preference toward natural gas over coal as a domestic fuel source. While America's energy security and American consumers' pocketbooks continue to suffer from a lack of a comprehensive and cohesive national energy policy, this Administration is requiring a "one fuel alternative" as the only path forward. I would respectfully assert that now is simply not the time to handicap our own economic health for no discernable environmental gain while our international competitors continue to strive for prosperity.

Thank you for the opportunity to testify and I would be pleased to answer any questions from the panel.

Mr. WHITFIELD. Thank you very much.

And at this time, I will recognize for 5 minutes, Mr. Voyles with LG&E.

STATEMENT OF JOHN N. VOYLES, JR.

Mr. VOYLES. Good morning, Mr. Chairman, and members of the subcommittee and audience guests. Thank you for the opportunity to appear before you today to present comments regarding the EPA's proposed rule Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources.

LG&E and KU Energy is a wholly owned subsidiary of PPL Corporation and operate Louisville Gas and Electric and Kentucky Utilities Company, regulated utilities that serve 1.3 million customers in 90 counties in Kentucky and five counties in Virginia.

Today, the companies operate electric generating stations with approximate capacity of 8100 megawatts that is 74 percent coal-fired, 25 percent natural gas peaking-fired and one percent hydro. Approximately 96 percent of our coal-fired units are equipped with sulfur dioxide controls and 67 percent of those units have SCR for nitrogen dioxide control.

After assessing the impact of the most recent regulations promulgated by the EPA, specifically the National Ambient Air Quality Standards, the Mercury and Air Toxic Standards, and the Cross State Air Pollution Rule, the companies developed compliance plans which were presented to and approved by the Kentucky Public Service Commission in December of 2011 and April of 2012. Those plans include installing additional environmental controls at four stations and replacing some existing controls at one station. Also, the companies will retire 800 megawatts of coal-fired capacity and will be constructing a new 640 megawatt gas-fired combined cycle unit. These investments are expected to cost an estimated $3 billion and to raise electric rates approximately 14 percent and 18 percent for KU and LG&E customers respectively by 2016.

With this background, we are concerned that the proposed rule would effectively eliminate new coal-fired generation from the Nation's energy portfolio by setting a standard which could only be achieved by coal units through the use of carbon capture and sequestration technology, a currently undemonstrated technology that is not cost-effective under current market conditions.

Today, we offer three specific comments:

1. The proposed C02 standard is a one-size-fits-all standard applicable to new generating units, both natural-gas-fired and coal-fired. Over the 40-year history of the Act, EPA has never set a single NSPS for all fossil-fired power plants based on an emissions rate achievable only by the fuel type with the lowest emissions. In fact, in past rulemakings, EPA has routinely established subcategories based on different fuels, industrial processes, equipment and other factors.

The proposed standard assumes that CCS technology sufficient to capture and store at least 50 percent of C02 emissions is available for new coal-fired units. While EPA's proposal for a framework to establish compliance under a sliding scale over a 30-year period certainly would appear to provide additional flexibility for new coal units with CCS, EPA also implicitly acknowledges the uncertain-

ties as to when or if CCS technology will be developed. Significant technical, financial, legal, and regulatory barriers still exist to the commercial deployment of CCS.

The Clean Air Act does not allow EPA to mandate a particular fuel and generation technology which is exactly what the agency has done in requiring coal-fired generation to comply with a standard based on new natural gas combined cycle units using a specified technology. Although low natural gas prices may currently favor new natural gas plants over coal plants, there can be no guarantee that natural gas prices will remain at those levels indefinitely. Approximately 42 percent of the Nation's power is supplied by coal-fired plants that utilize various boiler designs and combinations. As a matter of statutory compliance and sound energy policy, it is critical for EPA to set a separate standard for new coal-fired units that will permit those types of units to remain an option in the future. Such an approach is consistent with the relevant provisions of the Clean Air Act as implemented by EPA in the past and this administration's stated energy policy objective of achieving a diverse energy portfolio.

Secondly, the proposed standard of 1,000 pounds of C02 per megawatt-hour does not take into account the full range of operation normally experienced by a combined cycle unit. The proposal is based on an assumption that the standard is capable of being achieved by a unit at all times of operation, including startup, shutdown, and malfunction. Based on the extensive analysis conducted by the company in the course of planning and designing for our current combined cycle project, during periods of startup and shutdown, the emission rate will exceed the standard. Because combined cycle units will generally be operated as intermediate load units, they will likely experience regular startups and shutdowns that will pose a substantial challenge in meeting the emission standard.

Finally, while extremely problematic for new facilities, a single standard for all existing or modified fossil-fired units will have even more extreme impacts. A standard requiring each existing coal-fired unit to achieve C02 reductions equivalent to a gas-fired unit would likely result in shutdown of virtually all coal-fired units in the Nation. Such a result would wreak havoc with the Nation's energy supply in terms of both cost and reliability. In the State of Kentucky, and other midwest States where customers obtain more than 90 percent of their electricity supply from coal-fired generation, the outcome would be disastrous to the economies of those States.

Although contrary to EPA's stated policy, a single NSPS standard could also create a precedent for combining coal-fired and gas-fired units into one category for criteria pollutant regulation and subjecting those units to standards that can only be achieved by combined cycle units.

EPA has stated that its proposal does not apply to modified units, but the proposed rule does not contain express language to that effect. The potential for future standards applicable to modified sources results in substantial uncertainties, particularly for units facing major projects for the purposes of compliance with CSAPR and MATS. To avoid regulatory uncertainty and unin-

tended consequences, EPA should clarify that the proposed rule does not apply to existing modified units by including clear and unambiguous language in the Code of Federal Regulations stating that the performance standards established by the proposal does not apply to existing units.

Thank you for your time and interest. We have included a full copy of the comments we filed with the EPA and would submit those for your consideration.

[Applause.]

[The prepared statement or Mr. Voyles follows:]

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON ENERGY AND POWER

TESTIMONY OF JOHN N. VOYLES, JR.

VICE PRESIDENT, TRANSMISSION AND GENERATION SERVICES

LG&E AND KU ENERGY LLC

ON

"The American Energy Initiative"
The U.S. Environmental Protection Agency's proposed Greenhouse Gas New Source Performance Standards (NSPS)

July 16, 2012

LG&E and KU Energy LLC
220 W. Main Street
P.O. Box 32020
Louisville, KY 40232

Summary for Testimony of John N. Voyles, Jr.
On behalf of
LG&E and KU Energy LLC

Representing LG&E and KU Energy LLC, a wholly owned subsidiary of PPL Corporation (PPL), the following is a summary of major concerns the Company has with the United States Environmental Protection Agency's proposed Greenhouse Gas New Source Performance Standards released for public comment on Friday, April 13, 2012:

- As proposed, the rule would effectively eliminate new coal-fired generation from the nation's energy portfolio;
- There should not be one NSPS for all new fossil-fired generating units based on the fuel which has the lowest emission rate;
- The proposed standard is not continuously achievable for natural gas combined cycle generating units;
- Establishing a single GHG NSPS standard for all fossil-fired units establishes a bad precedent for any future standards that may be promulgated for existing or modified sources;

Good morning Chairman Whitfield and Subcommittee Members

Thank you for the opportunity to appear before you today to present comments regarding the Environmental Protection Agency's proposed rule entitled "Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units."

My name is John N. Voyles, Jr. I am Vice President, Transmission & Generation Services for LG&E and KU Energy LLC. LG&E and KU Energy is a wholly owned subsidiary of PPL Corporation (PPL) and operate Louisville Gas and Electric Company and Kentucky Utilities Company; both vertically integrated investor-owned regulated utilities that serve a total of 1.3 million customers in 90 Kentucky counties and 5 counties in Virginia.

Today, the companies operate electric generating stations with a capacity of approximately 8,100 MW. Of this capacity, 74% is coal-fired, 25% is gas-fired peaking units and the remaining 1% is hydroelectric units. Approximately 96% of our coal-fired units are equipped with sulfur dioxide controls and 67% of those units have SCR for nitrogen dioxide control. After assessing the impact of the most recent regulations promulgated by the EPA, specifically the lower National Ambient Air Quality Standards (for SO2 and NO2), the Mercury and Air Toxics Standards (MATS) rule and the Cross State Air Pollution Rule (CSAPR), the companies developed compliance plans, which were presented to and approved by the Kentucky Public Service Commission in December 2011 and April 2012. Those plans include installing additional environmental controls at 4 stations and replacing some existing control equipment at one station. Also, the companies will retire 800 MW of coal-fired capacity and will be

constructing a new 640 MW gas-fired combined cycle unit. These investments are expected to cost an estimated $3 billion and to raise electric rates approximately 14% and 18% for KU and LG&E customers respectively by 2016.

With this background, we are concerned that the proposed rule would effectively eliminate new coal-fired generation from the nation's energy portfolio by setting a standard which could only be achieved by coal units through the use of carbon capture and sequestration (CCS) technology – a currently undemonstrated technology that is not cost-effective under current market conditions. Today, we offer 3 specific comments:

1. A separate standard for coal-fired units is critical in order to ensure a diverse, cost-effective energy portfolio.

The proposed CO_2 standard is a "one size fits all" standard applicable to new generating units – both natural gas-fired and coal fired. Over the 40-year history of the Act, EPA has never set a single NSPS for all fossil-fueled power plants based on an emissions rate achievable only by the fuel type with the lowest emissions rate. In fact, in past rulemakings EPA has routinely established subcategories based on different fuels, industrial processes, equipment, and other factors.

The proposed standard assumes that CCS technology sufficient to capture and store at least 50% of CO2 emissions is available for new coal-fired units. While EPA's proposal for a framework to establish compliance under a sliding scale over a 30-year period certainly would appear to provide additional flexibility for new coal units with CCS, EPA also implicitly acknowledges the uncertainties as to when or if CCS technology will be developed. Significant technological,

financial, legal and regulatory barriers still exist to the commercial deployment of CCS.

The Clean Air Act does not allow EPA to mandate a particular fuel and generation technology which is exactly what the agency has done in requiring coal-fired generation to comply with a standard based on new natural gas combined cylce plants using a specified technology. Although low natural gas prices may currently favor new natural gas plants over coal plants, there can be no guarantee that natural gas prices will remain at those levels indefinitely. Approximately 42% of the nation's power is supplied by coal-fired plants that utilize various boiler designs and fuel combinations. As a matter of statutory compliance and sound energy policy, it is critical for EPA to set a separate standard for new coal-fired units that will permit those types of units to remain an option in the future. Such an approach is consistent with the relevant provisions of the Clean Air Act as implemented by EPA in the past and this Administration's stated energy policy objective of achieving a diverse energy portfolio.

2. The proposed standard does not allow continuous compliance for new combined cycle units.

The proposed standard of 1,000 lbs CO2/MWH does not take into account the full range of operation normally experienced by a combined cycle unit. The proposal is based on an assumption that the standard is capable of being achieved by a combined cycle unit at all times of operation including startup, shutdown, and malfunction. Based on the extensive analysis conducted by the company in the course of planning and designing for our current combined cycle project, during periods of startup and shutdown the emission rate will exceed the standard. Because combined cycle units will generally be operated as intermediate load units, they will likely experience regular startups and shutdowns that will pose a substantial challenge in meeting

the emissions standard.

3. Failure to provide a separate standard for coal-fired units establishes an unworkable regulatory precedent in the case of existing, modified, and reconstructed sources.

We fully support EPA's decision to defer promulgation of standards for modified or reconstructed facilities and guidelines for existing facilities. EPA states that it "anticipates" that existing and modified sources will be required to comply with a future standard "at the appropriate time." While we acknowledge that EPA has the authority to set separate standards for new and modified sources, we remain concerned about the potential precedent of a single standard for new fossil-fired units that could potentially increase the risk of such a standard for existing or modified sources if EPA ultimately opts to proceed with standards for such facilities or EPA's deferral is overturned by the courts.

While extremely problematic for new facilities, a single standard for all existing or modified fossil-fired units would have even more extreme impacts. A standard requiring each existing coal-fired unit to achieve CO2 reductions equivalent to a gas-fired unit would likely result in shutdown of virtually all coal-fired units in the nation. Such a result would wreak havoc with the nation's energy supply in terms of both cost and reliability. In the state of Kentucky, and other Midwest states, where customers obtain more than 90% of their electricity supply from coal-fired generation, the outcome would be disastrous to the economies of those states.

Although contrary to EPA's stated policy, a single NSPS standard could also create a precedent for combining coal-fired and gas-fired units into one category for criteria air pollutant regulation and subjecting those units to standards that can only be achieved by combined cycle units.

EPA has stated that its proposal does not apply to modified units, but the proposed rule does not contain express language to that effect. The potential for future standards applicable to modified sources results in substantial uncertainties, particularly for units facing major projects for purposes of compliance with CSAPR and MATS. To avoid regulatory uncertainty and unintended consequences, EPA should clarify that the proposed rule does not apply to existing modified units by including clear and unambiguous language in the Code of Federal Regulations stating that the performance standard established by the proposal does not apply to existing units.

Thank you for your time and interest. We have included a full copy of the comments the company filed with the EPA on June 25, 2012.

Mr. WHITFIELD. Now at this time, I would like to recognize Donna Kessinger, who is a miner with Cliffs Natural Resources, and we appreciate you being here very much this morning, Donna. You are recognized for 5 minutes.

STATEMENT OF DONNA KESSINGER

Ms. KESSINGER. Thank you, Chairman Whitfield and other members of the committee for this opportunity to speak with you today. It is an honor and a privilege.

Mr. WHITFIELD. Is your microphone on?

Ms. KESSINGER. Yes, it is on.

I am here not as a representative of my employer—sorry, I messed up.

My name is Donna Kessinger and I live in southwest Virginia and work at Cliffs Natural Resources' Pinnacle Mine in Wyoming County, West Virginia. I am here not as a representative of my employer, but as a private citizen, a coal miner and a mother that works hard for my family.

I work in a metallurgical coal mine as a certified electrician and mechanic and I am a member of the United Mine Workers Association 1713. My job duties include inspecting electrical installations and equipment to ensure they operate in accordance with all State and Federal laws and regulations that govern coal mining. More importantly, my job is to keep my coworkers safe by making sure our equipment functions properly. I work underground every day and I am incredibly proud of the work I do.

When my shift is done each day, I go home to take care of my daughter, she is 8 years old, her name is Haven. I am a single mother. Coal mining has allowed me as a single mother to provide a better standard of living for my daughter than I would be able to otherwise. The same is true for my coworkers and their families.

Our jobs allow us to put food on the table, buy clothes for our children and provide our families with good health care so we can lead productive lives. Coal mining makes this possible. Coal mining also provides the foundation for entire communities because it supports local businesses, which are the heartbeat that keeps many small communities alive.

As many of you are aware, several coal companies have announced layoffs because of decreased market demand that has been compounded by the decisions of Federal regulators who have made their distaste for coal mining known even though they are blind to the real world economic consequences of their actions.

My industry is under attack, and that means my job is under attack. America's future economic prosperity depends on the availability of affordable, abundant coal resources. Furthermore, my livelihood and the well-being of my family is at stake.

As I said before, I am proud to be a coal miner. This is an honorable profession that should be respected, not disparaged by those who have no solutions, just loud voices.

Please help me and others like me, proud Americans who want to work hard and provide for our families. We are not asking for special treatment or handouts, we simply want to be allowed to work.

Thank you.

[Applause.]
[The prepared statement of Ms. Kessinger follows:]

July 16, 2012

House Energy and Commerce Committee, Subcommittee on Energy and Power

Field Hearing: "The American Energy Initiative: A Focus on EPA's Proposed Greenhouse Gas New Source Performance Standard for Utilities and the Impact this Regulation Will Have on Jobs"

Testimony by Donna Kessinger

Thank you Chairman Whitfield and other members of the committee for this opportunity to speak with you today. It is an honor and a privilege to be here.

My name is Donna Kessinger. I live southwest Virginia and work at Cliffs Natural Resources' Pinnacle mine in Wyoming County, West Virginia. I am here today not as representative of my employer but as a private citizen – a coal miner and mother who works hard to provide for my family -- and I want to share my story.

I work in a metallurgical coal mine as a certified electrician and mechanic, and I am a member of the United Mine Workers of America Local 1713. My job duties include inspecting electrical installations and equipment to ensure they operate in accordance with all state and federal laws and regulations that govern coal mining. More importantly, my job is to keep my coworkers safe by making sure our equipment functions properly. I work underground every day, and I am incredibly proud of the work I do.

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My industry is under attack, and that means my job is under attack. America's future economic prosperity depends on the availability of affordable, abundant coal resources. Furthermore, my livelihood and the well-being of my family is at stake.

As I said before, I am proud to be a coal miner. This is an honorable profession that should be respected, not disparaged by those who have no solutions, just loud voices.

Please help me and others like me, proud Americans who want to work hard and provide for our families. We are not asking for special treatment or a handout. We simply want to be allowed to work.

Thank you.

Mr. WHITFIELD. Ms. Kessinger, thank you very much for that testimony. The insights that you provided are quite helpful for all of us and every one is concerned about their job and simply providing for the needs of their family, and we appreciate your taking time to be here today to talk about it.

Ms. KESSINGER. Thank you.

Mr. WHITFIELD. Now at this time, each one of us will be asking 5 minutes of questions to the witnesses. And I will recognize myself for 5 minutes.

I was reading an article the other day that said that nitrogen and oxygen make up 99 percent of the atmosphere, and that of that, .00144 percent is man-made. And that back in 1991 when Mount Pinatubo in the Philippines erupted, more C02 was thrown into the atmosphere than all man-made C02 in history.

Now I point that out simply because when Lisa Jackson, the Administrator of EPA, came to testify before our committee about these proposed greenhouse gas regulations, one of the members asked her a question, and they said—that person said, "How effective will these greenhouse gas regulations be?" And she said, "They won't be very effective at all unless all the other countries in the world do the same thing." We had a couple of witnesses that made the comment that the benefit of these regulations are rather minimal.

So, these proposed regulations if adopted, in my view, will definitely penalize America and make it more difficult for us to compete in the global marketplace.

Now, one of the difficulties about all of these regulations, proposed and otherwise, is that there have been so many of them coming that it is difficult to comprehend, and all of this stuff is really complicated.

But I want to ask you gentlemen in the utility industry to elaborate a little bit, because all of you have mentioned that for the first time ever in this proposed regulation, that EPA has issued a standard—and normally they do this if there is existing pollution control equipment that would meet the standard—that they do it for individual fuel sources like we will have this standard for coal because it is different from natural gas, that it is different from oil. And yet this time, for the first time, they did something different.

So Mr. Farrell, would you elaborate on that?

Mr. FARRELL. Certainly, Mr. Chairman.

The Clean Air Act mandates that if the EPA makes an endangerment finding, they are supposed to regulate the various pollutants that cause the endangerment, the tradition over almost 50 years has been to—the term of art they use is subcategorize the form that is causing the pollution they are concerned about. So they not only have always differentiated between a fuel source, for example natural gas different from coal different from oil, because they have different components to them, they actually also subcategorize even traditionally among things like coal, so that there are different standards for different types of coal because the Act requires them to use the best available—us, our industry—use the best available control technology for that particular fuel.

This is the first time in the history of the Clean Air Act that the EPA has adopted a single standard and it will allow only one type

of fuel to be used, which is natural gas, and will only allow one type of technology for that fuel, which is combined cycle technology.

Mr. WHITFIELD. Right.

Mr. FARRELL. And we are not even sure—as one of the witnesses pointed out, and I did, they are basing it on design specifications from manufacturers, not on any real world experience with the technology.

Mr. WHITFIELD. So they are not basing it on any actual emission information?

Mr. FARRELL. That is my understanding, Mr. Chairman.

Mr. WHITFIELD. It is primarily decided from design theories.

Mr. FARRELL. That the manufacturers believe that a certain level can be achieved, but it has not yet been demonstrated.

Mr. WHITFIELD. Now Mr. Vining, would you agree that when you go to regulate and you use one standard for every fuel source, which is the first time it has ever been done, that in reality, would that mean that you could never build another coal-powered plant in America and comply with that existing standard?

Mr VINING. Absolutely. And I guess, Mr. Chairman, I would point out two things. And my colleagues on either side of me could comment further, but I think it would be difficult for any utility in this country, whether it is to be held accountable to the shareholders or to the public utility commissions whose job it is to look after the consumers of the electricity, to basically roll the dice and invest several billion dollars in a new coal-fired power plant with having no discernible way to remove the C02 and meet the standard that has been promulgated here.

Mr. WHITFIELD. So you know what, I walk away from that with the firm belief—and I think one of you said this—that EPA wants, at this point in time, the majority of electricity to be produced from natural gas, so that is why they developed this standard. And so we have a group of bureaucrats in Washington, DC, that think because of the availability and low current market prices of natural gas, that justifies the elimination of coal as a fuel mix. So the free market system is not determining this, this is being determined by decisions in the Federal Government in Washington, DC. Would you agree with that?

Mr VINING. Absolutely.

Mr. WHITFIELD. Well, where does the time go, my time has already expired.

So Mr. Griffith, I will recognize you for 5 minutes of questions.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Mr. Farrell, do all natural gas combined cycle power plants meet EPA's proposed greenhouse gas NSPS requirements?

Mr. FARRELL. That is unproven at this point, Congressman. I believe that new designs from manufacturers believe you can reach that standard, but I think that remains to be seen.

Mr. GRIFFITH. And are you aware that certain groups that first targeted coal, such as the Sierra Club, are now targeting natural gas with their Beyond Natural Gas program, as well as Beyond Coal?

Mr. FARRELL. I have read news accounts to that effect.

Mr. GRIFFITH. Thank you.

Ms. Kessinger, I know you work in the met coal, which is a little more secure than steam coal is. But if you were to lose your job, in your community where would you go to find another job that pays anywhere near as much as what you're making now?

Ms. KESSINGER. I have no idea. I make pretty good money with what I do, and I do not think there is anything in this region that would allow me to make the kind of money that I do and provide for my family.

Mr. GRIFFITH. And would it not be fair to say as well that if the coal mines suffer a huge layoff across the region, that many other businesses will also fail and unemployment will most likely skyrocket in the region?

Ms. KESSINGER. Well, yes. In my community where I work, it is in Pineville-Welch area, it would be devastating to that community because that is all they have there, is coal mining.

Mr. GRIFFITH. All right. Let me ask each of you a question. The EPA maintains that the proposed NSPS rule will impose no additional costs on industry and will have no adverse impact on jobs. Do you agree with that, Mr. Farrell?

Mr. FARRELL. Well, I cannot speak for other industries. I can speak for our industry. This particular rule deals with new power plants. We have just completed the plant here in Wise County. If this rule had been in effect 5 years ago when we made the decision to proceed with that facility and got the air permits from EPA, from the DEQ in Virginia, permission from our State regulators, we would not have been able to proceed with the plant. That would have been—that $1.8 billion investment would not have occurred.

Mr. GRIFFITH. So it would have had an impact on you except you got in under the wire before this rule came in.

Mr. FARRELL. Well, several years before, but yes.

Mr. GRIFFITH. Mr. Vining, do you agree with their assessment that it does not impact costs on industry or adverse impact on jobs?

Mr VINING. It is inevitable that it is going to have a huge impact on coal mines and the coal miners in this region and elsewhere in this country in terms of demand for the product that we produce every day.

Mr. GRIFFITH. And I think in your testimony, you indicated that you believe that with the prices of electricity going up, that would also affect manufacturers and other jobs as well; is that correct?

Mr VINING. I will be a little more harsh and say that I view it as a regressive tax on every American who lives and breathes and pays bills in this country today, when they turn on a lightbulb.

[Applause.]

Mr. GRIFFITH. Mr. Voyles, your opinion on the EPA's assessment that it has no real impact on the—the NSPS has no real impact on costs on industry or an adverse impact on jobs.

Mr. VOYLES. Well, I would concur with Mr. Farrell's comments. As it applies to new units, most of the people in the utility industry are not going to build any new coal units, so there will be no impact. We too have just put in service a brand new coal unit at the beginning of 2011 that in fact received a clean coal technology tax credit incentive from the IRS through the DOE's program, our Trimble County Station. So like Mr. Farrell, had we waited until now, that unit would not be in existence.

The bigger concern I think that goes to the point of your question is how the mechanisms in the Clean Air Act will lead them down a path to apply this new standard to existing units. That would be devastating.

Mr. GRIFFITH. Are you saying that perhaps if the administration gets past November and is still in office, they might feel more flexible and apply these regulations to existing coal-fired power plants?

Mr. VOYLES. What I am saying is I think that there are some languages in the Clean Air Act Amendments of 1990 that say that they move toward existing units. The concern we have is do they apply this particular standard based on natural gas-fired units to existing or modified units.

We have just invested significant monies and will be investing $3 billion to put additional controls on for the other rules that are on your chart and those investments could become standard if they apply this C02 standard to existing coal-fired units.

Mr. GRIFFITH. I yield back my time, Mr. Chairman.

Mr. WHITFIELD. Thank you.

At this time, I recognize Mr. Roe for 5 minutes.

Mr. ROE. I thank the chairman for yielding, and just to say it does matter, listening to your statement, Mr. Voyles.

Mr. Vining, it was difficult I know, I look at the size of this room and I am not sure how many people are in it, but not 750, that you have had to lay off. And that had to be a very, very difficult decision that you had to make.

What are the impacts of these rules that you have to deal with on a day-to-day basis as a CEO of your company?

Mr VINING. Well, first and foremost, the number one priority for Alpha is safety and the welfare of the employees. That is hard to pursue if those employees are not employed long term basically in the job of producing low cost electricity, low cost energy for this country.

It is the hardest thing that I do, is get a phone call in the middle of the night when somebody is hurt or I see coal stacking up, as a lot of the folks here have seen happen, and have to make very difficult decisions. And it is because of our consumer base, folks that sit at this table and other consumers who are unable to use our product in the manner they have used it in the past.

Mr. ROE. Anyone can answer this if you want, and this is what bothers me. I just mentioned that China uses more coal than Europe, the United States and Japan put together, so it is a global commodity, coal is.

What impact do the EPA regulations have on our competitiveness for businesses around the world. And it disturbs me that we might end up selling our own natural resources to our major competitor. That makes no sense to me whatsoever.

Mr. VOYLES. I certainly think that if you are in the coal industry and the use of your product declines within the United States, the inclination, if you are a businessman, is to find a way to utilize your product. So I would agree that coal, the coal industry, would make every attempt to sell the product they can, and some of that would go overseas to China and it certainly would I think migrate toward the thoughts that you had.

Mr. ROE. So the point is that it would have a very detrimental effect on U.S. businesses and jobs and then global competitiveness.

Mr. VOYLES. I would agree with that.

Mr. ROE. Let me ask, Mr. Voyles, for you, I know you are concerned and I just met with the power distributors last Friday in Johnson City and they are looking at this—these are the folks on the ground that have to face people when their power rates go up. And we have a lot of our senior citizens in our area that live on a fixed income. I think one of the worst things you can do—they have to pay their power bill, it has got to be one of the hardest things in the world you see as a distributor, as a producer, when someone, you have to go and they are behind in their power bill, how does this affect people. You have to pass those increased costs to the ratepayer, like us and everybody sitting in this room. When you have to turn their power off, is what I am saying.

Mr. VOYLES. Yes, that is correct. As I said in my testimony, the impacts of the rules, not this proposed rule but the previous promulgated rules, is going to have an impact on our customers ranging between 14 and 18 percent increase by 2016.

If you are on a fixed income, that forces people into decisions of where to put the money that they have that is disposable. Do you put the extra 14 percent to your electric bill or do you put it to some other bill that you might need, whether it be medical, food, housing. We take very seriously, and have programs established to do what we can to ease the burden and not cut people off unnecessarily. But at the end of the day, they are making choices of their life based on the money that they have as fixed income.

Mr. ROE. See, why this bothers me is I guess maybe the way I look at things as a physician, I look at things from a single patient. When you have these policies that are up here and you do not see how it affects the individual down here, whether it is a job loss or whether it is an 80-year-old lady, you have got to go out, a widow, that you have got to cut their power off because they cannot pay their bills. That is very disturbing to me.

And Donna, one final question to you. I know you have a child and you are very proud of your child. How does this affect kids in your area, the miners' families?

Ms. KESSINGER. I think it would affect them because if you are not able to provide certain things for your children, like if you are forced at or below poverty level because you are not making the money, I mean, you choose between buying a new pair of shoes or paying an electric bill. That would be a hard decision as a parent, you know. And if you do not have the money, it would be hard.

Mr. ROE. Mr. Chairman, thank you, and I yield back.

Mr. WHITFIELD. Thank you.

Ms. Kessinger, I would also like to ask you a couple of questions. Number one, do you work with a strip mine or an underground mine?

Ms. KESSINGER. No, underground.

Mr. WHITFIELD. Underground. And so when you go to work and you all are there preparing to go underground, putting your equipment on, checking your equipment and so forth, I was just curious, is there very much discussion among the miners themselves about

these regulations and the potential impact of these regulations? Is it something that you all discuss or do you not discuss it?

Ms. KESSINGER. There is a handful of us that discuss it. I do not think it is really well known in the community or among a lot of miners how serious this is to us. I mean, we are working every day, we get up, we go underground, we come out, we take care of our families. And I think the average working day citizen, every day, they do not have the time. A lot of it, me personally, I am not very political and a lot of it is not written in layman's terms for me, so it is a little hard to understand certain things.

Mr. WHITFIELD. Right.

Ms. KESSINGER. But our company is making it more well aware because of the utility MACT. That it will affect us, it will affect our community.

Mr. WHITFIELD. Well, you know, talking about utility MACT, this is another disturbing thing about what EPA is doing. When they first came out with utility MACT or finalized that rule, they said that less than 5,000 megawatts of electric generating capacity would be retired and so far over 25,000 megawatts has been retired. So we think that they under-estimate the cost of many of their regulations as well.

We talked about this one standard, which is the first time they have ever utilized that sort of analysis, and normally when you come out with a regulation, there is some existing technology available that you can meet the requirement. But it is my understanding, we talked about carbon capture and sequestration, there is no commercially viable carbon capture and sequestration that you could use to meet this standard, if you are a coal plant; is there, Mr. Farrell?

Mr. FARRELL. No, Mr. Chairman, there is not. The theory—I would never try to speak for the EPA—I believe their theory is that you could permit a new plant but it would have to have a functioning commercially viable CCS, carbon capture technology, attached to it, removing the carbon down to this 1,000 pounds within 10 years. I guess the theory is that by imposing this rule, that will force the adoption of a technology that does not yet exist.

Mr. WHITFIELD. Right. You agree with that?

Mr. VOYLES. I do agree with that and a further complication that I think people really need to get a better understanding on, carbon capture is a mechanical process, a chemical mechanical process, and theoretically it does perform as it says, and it has in some other industries. The bigger question I think facing the country is what do you do with it after you capture it, where do you store it? And there are significant legal and property rights and all kinds of issues that have to be put in place to allow, if you can capture it, to put it somewhere. So that is the great concern that I think needs to be dealt with.

Mr. WHITFIELD. And, you know, we actually sent a letter to EPA about this and they came back and specifically said that future coal power plants simply cannot meet this requirement without CCS and there is no CCS available. So I do not know how you can walk away with any other conclusion except that EPA wants to put the coal business out of business. That is my interpretation.

Mr. Griffith, you are recognized for 5 minutes.

Mr. GRIFFITH. Let me follow up on that for just a quick minute, Mr. Voyles.

When you talk about the legal rights and the property rights—this is the old lawyer in me coming out—am I interpreting you correctly that while a mining company might have had the right to extract coal, there is nothing in that original permit that allows somebody to put carbon back into the ground. Is that part of what you are talking about?

Mr. VOYLES. To a degree. One of the technologies that is being investigated in research and development activities, and we participate in those research and development activities, is injecting carbon dioxide deep into saline aquifers, actually would be below coal mines, below water tables, upward of, depending on where you live, 4,000, 8,000, 10,000 feet underground, and allowing it to fill up the pores that are in the earth and the rocks at that point. Once you inject it that deep in the ground, it propagates, it does not just stay in one place, it propagates laterally in that rock formation. And if you have seen rock formations as you drive through the mountains as I did coming down here, you see all different kinds of rock. It is going to propagate laterally, so it is going to go under pieces of property and across State boundaries and under rivers. You know, where does it go? You know, there are lots of technical questions about that, and certainly legal barriers, I think.

Mr. GRIFFITH. And am I correct that on a large scale, that has not been done anywhere in the world. So when it starts migrating or going places or the pressure builds up, we really do not know what the long-term consequences of doing that are, do we?

Mr. VOYLES. That is correct.

Mr. GRIFFITH. OK.

Mr. Farrell, how do utilities maintain reliable service and rates when the EPA ratchets up regulations?

Mr. FARRELL. If I could make one last comment on this carbon capture.

Mr. GRIFFITH. Absolutely.

Mr. FARRELL. There is another issue that has not been addressed specifically, which is you have to take the carbon from the plant to where you are going to store it. That would have to be done largely in a new pipeline system, that does not exist today. My company is also in the pipeline business delivering natural gas through pipelines. Those pipelines are not designed, cannot handle carbon dioxide, so you would have to have a new system, or it would have to be removed by truck. It is another complicating factor on the legal liability around all those kinds of issues.

To your question, Mr. Griffith, all of us in the industry are extremely conscious of our customers' rates, it is our primary focus. Whenever we make a decision and we are having to make a decision—when we built this Wise County power plant, it is almost $2 billion of investment, it is the largest single investment in the history of southwest Virginia, in its entire history—that decision was based on the fact that we were going to be able to use that plant for 60 years. That is our payback time, that is the nature of our business, that is what we do and we are OK with that. Most normal businesses would not have a long payback like that, or they

would not make the investment. But that is what we do, that is what we have always done.

In order for us to be able to keep rates low—our company has among the lowest rates in the United States—we have been able to do that for many years because my predecessors, we have been in business for over 100 years, my predecessors that had my job, made the determination that the most important thing was to maintain fuel diversity. So we have very highly efficient nuclear power stations, we have coal-fired stations, we have hydro-powered stations, we have wind farms, we have biomass stations, we have natural gas, we have some oil. We have the largest pump storage water facility in North America. And it is by being able to use all of those sources of energy that has allowed us to maintain among the lowest rates in the United States.

If we are forced into one fuel, which will take place, it will take decades, at least a decade, probably two. That is going to be—I consider that to be a serious problem for the country.

Mr. GRIFFITH. I will tell you that I am very concerned. One of the hearings that Chairman Whitfield held, Lisa Jackson did testify and we were talking about greenhouse gases in particular and their concern was, you know, that as things get warmer, you end up with more heart attacks and strokes and I specifically asked the question, what happens when people cannot afford to heat their homes and you have got people, you know, huddled in one room with a small heater going at about 50 degrees just to stay warm because they cannot afford it. The response was well, we have programs to take care of that. But in talking with my constituents, those programs often, particularly in cold winters, are not adequate to meet the needs. You get to late February, early March and they have run out of whatever assistance money that was there.

So it is a great concern to me that the EPA does not seem to take into consideration the negative impacts on families and on jobs when they put new regulations in that have minimal impact and ratchet up the costs tremendously.

I yield back.

Mr. WHITFIELD. Mr. Roe for 5 minutes.

Mr. ROE. I thank you, Mr. Chairman. I just have one question.

I have seen this same EPA with ozone, they set a standard of attainment and you reach attainment and then they set another standard that you cannot reach with current technology. So as I understand this, EPA has set a standard that there is—it is the ultimate catch 22. You set a standard for one particular industry that there is no technology to reach and then you have the audacity to say that under the proposed rule for power plants, there is a path forward for construction of new power plants. I may not be the roundest marble in the sack, but I understand exactly what that is. That is just an attack on coal to remove them, and as you said, to take that one piece out of your armament that you have to keep your rates low for customers.

So Mr. Vining, is there a way forward—or anyone who wants to answer this—for constructing—maybe Mr. Voyles—that coal-fired power plant under these rules?

Mr. VOYLES. The standard as it is set today for greenhouse gases, there is no technology, as we have said here repeatedly, that will

allow us to operate a coal-fired power plant in the near term. Whether or not that comes, I have significant doubt about, because why would financial institutions invest in a technology that is not proven and is not going to be here in time for that flexibility, that 30-year flexibility, that they have proposed, to allow us to do that. So we will migrate, as we need to add resources to meet customer demand, toward technologies that can achieve a standard. And coal will not be one of those in new units.

Mr. ROE. This is what bothers me about what is going on in Washington, DC,. now. We are picking winners and losers. Can you say Solyndra, where you picked one particular industry, subsidized them heavily, it did not work, it is more expensive, and yet you have a known technology that does work that you are trying to put out of business. You have created a rule. There was a law that was passed and sponsored by Jeff Davis from Kentucky, that is probably the most important piece of legislation that has been passed out of the House that is sitting in the Senate gathering dust, that will affect every person in this country. It is called The Reines Act. The Reines Act was passed last September and it says this, if the rulemaking process, when we write rules—I will give you an example, the healthcare bill is 2700 pages long, I have read every word of it, but the rulemaking is already at 13,000 pages. But if a rule affects the U.S. economy by more than $100 million, it has to come back to the Congress for re-approval. We have to do that to rein in these rulemakers that are affecting the economy. And that is what it is doing, not the legislation, but the rulemaking process. Am I correct on that?

Mr. VOYLES. My opinion, it is the implementing regulations that are written against the acts passed by Congress. You mentioned ozone in your opening comments, and the way that the Clean Air Act statute reads, every 5 to 8 years, the EPA must re-assess the standard and decide if it is still adequate. And that happens now, it has happened since 1990, and this standard would be no different going forward.

Mr. ROE. Mr. Voyles, here is a question I asked when I was the Mayor of Johnson City. I said what was the ozone level 500 years ago. Nobody knew the answer, so they may be setting a standard that has never existed in the world. So that was a bit of a question that I thought was fairly important. What are you trying to get to, what was the world like 1,000 years ago, 100 years, nobody knew the answer.

So what you are saying to me is that there is no way forward currently to build a coal-fired power plant in this country.

Mr. VOYLES. Under this proposal for greenhouse gases, I do not see a way forward at any time in the near future.

Mr. ROE. Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. Thank you.

I would just like to follow up with one question, Mr. Farrell. You mentioned you have this new plant in Wise, Virginia. Did you say a $2 billion expenditure?

Mr. FARRELL. One-point-eight.

Mr. WHITFIELD. One-point-eight. And of course, these proposed regulations are for new plants. That would be an existing plant, so if EPA came back and applied this same standard to your $2 billion

plant in Wise, as an existing facility, would you be able to meet this requirement?

Mr. FARRELL. Not this new proposed requirement, absent CCS technology being developed within the next 10 years. With the plant that is there today, we could not do that.

Mr. WHITFIELD. And when did you all complete that plant?

Mr. FARRELL. It went commercial last week.

Mr. WHITFIELD. Last week. And how many people are employed there?

Mr. FARRELL. It is a little over 100. Over 2,000 were involved in the construction.

Mr. WHITFIELD. And $2 billion. And if they do make this apply to existing plants; today, you would not be able to meet it.

Mr. FARRELL. Could not run the plant, no.

Mr. WHITFIELD. Anybody else have anything?

[No response.]

Mr. WHITFIELD. Well, that would conclude our questions and answers with the first panel.

What we are going to do is we are going to take like a 7-minute break and then we will be right back. But Mr. Farrell and Mr. Vining and Mr. Voyles and Ms. Kessinger, thank you all very much for being with us. We appreciate your testimony and giving us very clear and concise answers to our questions. Thank you very much.

[Applause.]

[Recess.]

Mr. WHITFIELD. We will come back to order and at this time, I want to introduce the members of the second panel.

We have with us this morning Mr. Dan Nation, who is the Division President for Parkdale Mills, and I believe that is in North Carolina. Is that correct, Mr. Nation?

Mr. NATION. That is correct, Mr. Chairman.

Mr. WHITFIELD. We have Mr. Joe Street, who is Vice President of Sales for West River Conveyors & Machinery Company on behalf of the Buchanan County Chamber of Commerce. And then we have Mr. Scott Weyandt, who is the Director of Sustainability & Compliance with Shearer's Food, Inc.

So welcome to the hearing this morning. As you know, we are discussing the proposed greenhouse gas regulations for new plants. And we appreciate all of you being here and we look forward to your experiences and your expertise on this subject.

So Mr. Nation, I will recognize you for 5 minutes for an opening statement.

STATEMENTS OF DANIEL E. NATION, DIVISION PRESIDENT, PARKDALE MILLS; JOE GARY STREET, VICE PRESIDENT, SALES, WEST RIVER CONVEYORS & MACHINERY CO. ON BEHALF OF BUCHANAN COUNTY CHAMBER OF COMMERCE; AND SCOTT E. WEYANDT, DIRECTOR, SUSTAINABILITY & COMPLIANCE, SHEARER'S FOOD, INC.

STATEMENT OF DANIEL E. NATION

Mr. NATION. Thank you, Mr. Chairman.

My name is Dan Nation, I am the Division President of Parkdale Mills. I appreciate the opportunity to speak to you this morning re-

garding the impact of rising energy costs on Parkdale Mills and the textile industry.

Parkdale is North Carolina-based textile company that has 28 plants in operation and over 4,000 employees in eight states. In addition to our U.S. facilities, Parkdale has operations in six countries outside the U.S. in North, Central, and South America. Over 90 percent of our production takes place in the U.S. In turn, 78 percent of that production is exported to other countries. The major export markets for Parkdale Mills are Central America, Mexico, China, and South America.

Parkdale Mills is the number one manufacturer of spun yarns in the world. Our business model centers on a constantly evolving supply chain in order to yield a faster response, better service and continued improvements in speed to market. Parkdale also has a business diversification strategy that aims to complement our core competencies. Some of these products are sold direct to retail and include cotton balls, swabs, and pads. Our core finished product is a tube of yarn. These tubes of yarn are sold to knitting companies such as Hanes and Fruit of the Loom and made into garments that include underwear and t-shirts. We also sell to weavers for end uses such as denim and military uniforms.

Yarn spinning is a very volume-driven commodity business. Textiles are some of the first manufacturing plants built in emerging economies, requiring us to compete in a growing global arena. We are constantly under pressure to lower conversion costs to stay competitive. Our conversion cost is expressed in cents per pound, which is the cost to convert a pound of cotton into a pound of yarn. The major components of conversion costs include labor, energy, benefits or health care, and maintenance. All of these are escalating but of these, energy represents the highest percentage increase.

Many of you might be surprised to learn that the largest yarn spinner in the world is located in the United States. Last year Parkdale produced 850 million pounds of yard and we were the 88th largest exporter out of the United States. In order to compete against extremely low wage countries, it has been necessary for us to invest capital in automation. The downside is that automation consumes more energy. As energy prices continue to escalate, we are losing the cost advantage of the automation investment. Yarn spinning is a very power intensive industry, comprising 25 percent of our conversion costs. As a reference point, last month, all Parkdale plants in the United States consumed 86 megawatts of power, or enough energy for almost 100,000 homes.

Over the last few years, our power costs have continued to rise and we are unable to pass these increases through the supply chain. What is more concerning to Parkdale and other manufacturers is the Greenhouse Gas New Source Performance Standard, which will create even larger cost escalations that our supply chain cannot absorb. One of our plants near here is a perfect representative example of what is happening to Parkdale companywide. In 1995, we built a 750,000 square foot spinning mill with an investment of $200 million in Hillsville, Virginia. It is still one of the most modern and automated spinning mills in the world. This operation employs 381 people and supports a substantial amount of

other local jobs. We are the largest employer and taxpayer in the county. Over the last 4 years, our power cost has increased 24 percent in this facility. Energy cost increases of this magnitude put manufacturing companies at serious risk as well as destroying any potential for future investment and job growth. Energy price rates have become the primary consideration for us when we evaluate where to locate a new facility.

The Greenhouse Gas New Source Performance Standard is in fact a penalty designed to incentivize the consumer to lower energy consumption by raising their price. It needs to be understood that this strategy does not work with power intensive manufacturing companies. Parkdale has been in the energy saving business for years. We invest a lot of capital in energy efficient lighting, motors, and machinery. We cannot reduce our energy demand to offset higher prices. It is not possible for us to turn off more lights at night or raise the temperature on our thermostat by five degrees. There is no way for us to cut consumption to compensate for the cost increase like, for instance, a residential consumer could. In fact, we contribute to overall energy efficiency by running our factories at a consistent 24 hours a day, 7 days a week, giving utilities a base capacity, which lowers their cost. The only way a strategy like this could possibly work is if you punish the consumers who can do something about it, if they so desire.

Furthermore, manufacturing is not creating new demand or the need for any added capacity. We have been using the same amount of energy for years. It is not in the best interest of job preservation or growth to penalize manufacturing for this. We are the one creating the jobs so the people who need this energy can pay for it.

If we have to turn off lights to conserve energy, we turn all of them off, we close the factories and people start losing jobs. These jobs end up overseas and we never get them back. Putting higher energy costs on the back of manufacturing is one of the fastest ways I know of to kill more U.S. jobs. This regulation does not solve a problem, it creates a larger one.

Thanks for the opportunity to speak to you this morning, I look forward to answering your questions.

[Applause.]

[The prepared statement of Mr. Nation follows:]

THE AMERICAN ENERGY INITIATIVE

Testimony of Daniel E. Nation
Division President, Parkdale mills

July 16, 2012

PARKDALE

A Leader in the Textile Industry Since 1913

531 Cotton Blossom Circle
Gastonia, NC 28054
(704) 874-5136

Summary of Major Points:

- Parkdale Mills is the largest producer of spun yarns in the world.
- Yarn spinning is a power intensive industry, comprising 25% of the cost to produce yarn.
- Power costs continue to rise dramatically and we are unable to pass cost through the supply chain.
- Green House Gas New Source Performance Standard will increase energy cost for manufacturing to the point of job destruction in the U.S.
- It must be recognized that manufacturing cannot be penalized for energy consumption, but instead rewarded for job creation.
- A regulation enacted to incentivize consumers to use less energy is not logical for a manufacturer. Over consumption is the base that utilities need to lower their costs.
- The Greenhouse Gas New Source Performance Standard does not solve a problem; it creates a larger one by destroying existing jobs and the potential for job growth.

STATEMENT OF DAN NATION, DIVISION PRESIDENT, PARKDALE MILLS
HOUSE ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEE ON ENERGY AND POWER
JULY 16, 2012

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Thank you for the opportunity to speak to you this morning and I look forward to answering your questions.

Mr. WHITFIELD. Thank you, Mr. Nation.

I might also mention that Dr. Roe has a previous appointment in his district, and when you see him get up and leave, it does not mean he is not interested, but he just has to be somewhere else.

So, Phil, thank you for being with us today.

Mr. Street, you are recognized for a 5-minute opening statement.

STATEMENT OF JOE GARY STREET

Mr. STREET. Good morning, Mr. Chairman and committee members. My name is Joe Gary Street and I am a small business owner in Buchanan County, Virginia. I am also the son of a Buchanan County coal miner. My children, grandchildren and friends all have ties to coal. We are a coal mining family with our county's best interest at heart. Having lived here in Buchanan County my entire life, I am passionate about the county's current prosperity and prosperity for future generations.

Buchanan County is the largest producer of coal in the State of Virginia, producing more than 9.1 million tons in 2011. With the amount of coal produced here, coal jobs make up a significant portion of our workforce. With a population of only 23,000 in Buchanan County, coal mining jobs, directly and indirectly, total more than 50 percent of the workforce. I am here today to ask you to reject the U.S. EPA's proposed Greenhouse Gas New Source Performance Standards (NSPS) for utilities, and explain to you the impact this regulation will have on the jobs in Buchanan County, Virginia and beyond.

The EPA's latest proposal for controlling greenhouse gas emissions will force more coal-fired plants to close when 25 percent have already announced closure over the next few years, reducing the amount of coal that will be produced and used in the United States. With the forced closure of power plants comes major repercussions for the coal industry. Already this year, thousands of coal miners have been laid off across Kentucky, southwest Virginia and southern West Virginia. The EPA's continued war on coal makes the layoffs the tip of the iceberg for the impact these regulations will begin to have on our communities. This past Monday, one of the largest U.S. coal producers filed for bankruptcy. With this significant bankruptcy filing and the volatility of fossil fuels, newspaper headlines are rampant and employees are scared. I have been asked in my own business about layoffs. Although our business has never laid off a single person, emotions are high even for the employees of businesses indirectly affected by the coal market. Our people are worried about their jobs and how they will pay their bills and mortgages.

It was 4 years ago that President Obama told an interviewer in San Francisco if he was elected, he would bankrupt any companies attempting to build a coal-fired power plant and he would see to it that electricity costs would "necessarily skyrocket." The EPA sponsored NSPS will drastically drive up the cost of electricity. In addition to people losing their jobs, they will be faced with higher electricity bills. NSPS will deliberately push Americans to abandon coal, our most efficient and reliable source of energy. In Buchanan County, we simply cannot afford to abandon coal. Already we have tried to diversify our economy with manufacturing jobs. The geo-

graphical location and lack of flat land makes it nearly impossible. The population is so dependent on coal that if we were to abandon it, the only word to describe Buchanan County will be devastation.

Buchanan County receives $46 million per year in severance tax from coal, natural gas and other related coal taxes, per 2013 budget Buchanan County. The county only receives a total of $60 million from all county sources, excluding Federal and State. This $60 million figure includes the severance tax, including property tax, local sales tax and use tax, revenue from waste removal. The major county expenses total between $55 million and $60 million, could go as high as $65 million. In order to survive, if fossil fuels are abandoned, major cuts will have to be made. These cuts will come from a large majority of people who do not have jobs.

President Obama allegedly supports an all-of-the-above energy policy, as he stated in his address to the American people in January. However, fossil fuels were left out of that policy. Currently, there is no energy policy from the executive branch that includes fossil fuels. I feel that it is my responsibility to speak on behalf of the citizens of Buchanan County so that everyone understands what is at stake if the EPA continues on the "convoy of regulatory train wrecks that are rolling across America." We are only one of thousands of communities across our country that will suffer. Counties in Kentucky and southern West Virginia will suffer even worse than Buchanan County because they have higher populations of coal and coal-related jobs.

If President Obama's energy policy is all-of-the-above, should he not be putting taxpayer dollars into things like carbon storage research and ways to continue to cut down on C02 emissions, rather than pumping taxpayer dollars into unprofitable solar energy? Coal is the most economical, abundant, and reliable source of energy that we have in this country. Why are we not focusing on making this affordable resource better? NSPS's impact on our country is beyond describable. The facts presented in this statement do not begin to summarize the devastating effects the NSPS will have. As a business owner, how do you explain to your employees why they are losing their job? Do you tell them it is because we have a government who forgot about the people of Appalachia and their livelihood? I am telling you all this because I see and read every single day firsthand what EPA regulations are doing to the communities throughout Appalachia, and particularly Buchanan County. I am here to ask you to say no to the proposed NSPS.

Thank you and I will answer any questions you may have.

[Applause.]

[The prepared statement of Mr. Street follows:]

Testimony for Public Hearing
Subcommittee on Energy and Power
July 16, 2012

Joe G. Street
[redacted]

RE: The American Energy Initiative

Good Morning Mr. Chairman and Committee Members. My name is Joe Gary Street and I am a small business owner in Buchanan County, Virginia. I am also the son of a Buchanan County coal miner. My children, grandchildren and friends all have ties to coal. We are a coal mining family with our county's best interest at heart. Having lived here in Buchanan County my entire life, I am passionate about the county's current prosperity and the prosperity for future generations. Buchanan County is the largest producer of coal in the state of Virginia, producing more than 9.1 million tons in 2011. With the amount of coal produced here, coal jobs (directly and indirectly) make up a significant portion of our work force. With a population of only 23,000 in Buchanan County, coal mining jobs, directly and indirectly, total more than 50% of the workforce. I am here today to ask you to reject the U.S. EPA's proposed Greenhouse Gas New Source Performance Standards (NSPS) for utilities and explain to you the impact this regulation will have on jobs in Buchanan County, Virginia and beyond.

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Buchanan County receives approximately $46 million per year in severance tax from coal, natural gas and other related coal taxes (per 2013 budget). The county only receives a total of $60 million from ALL county sources (this $60 million figure includes the severance tax) including property taxes, local sales and use tax, revenue from waste removal, etc. The major county expenses per year total $55-60 million dollars. In order to survive, if fossil fuels are abandoned, major cuts would have to be made. Those cuts will come from a large majority of people who do not have jobs! President Obama allegedly supports an "all of the above" energy policy as he stated in his address to the American people in January, however, fossil fuels were left out of that policy. Currently, there is no energy policy from the executive branch that includes fossil fuels. I feel that it is my responsibility to speak on behalf of the citizens of Buchanan County so that everyone understands what is at stake if the EPA continues on the

"convoy of regulatory train wrecks that are rolling across America" (John Ruberry, blogger, Marathon Pundit). We are only one of thousands of communities across our country that will suffer. Counties in Kentucky and Southern West Virginia will suffer even worse than Buchanan County because they have even higher populations of coal and coal related jobs.

If President Obama's energy policy is "all of the above", shouldn't he be putting taxpayer dollars into things like carbon storage research and ways to continue to cut down on CO2 emissions rather than pumping taxpayer dollars into unprofitable solar energy? Coal is the most economical, abundant, and reliable source of energy that we have in this country. Why are we not focusing on making this affordable resource better? NSPS's impact on our country is beyond describable. The facts presented in this statement do not begin to summarize the devastating affects NSPS will have. As a business owner, how do you explain to your employees why they are losing their job? Do you tell them it is because we have a government who forgot about the people of Appalachia and their livelihood? I am telling you all of this because I see and read every single day firsthand what EPA regulations are doing to the communities throughout Appalachia, and particularly Buchanan County. I am here to ask you to say NO to the proposed NSPS.

Thank you for your time and consideration.

Sincerely,

Joe G. Street

Mr. WHITFIELD. Well, thank you, Mr. Street, we appreciate your testimony.

Mr. Weyandt, you are recognized for a 5-minute opening statement.

STATEMENT OF SCOTT E. WEYANDT

Mr. WEYANDT. Mr. Chairman, members of the subcommittee, good morning and thank you for the opportunity to participate in your proceedings.

Over the course of 35 years, Shearer's has grown from a single family owned delivery truck to what is truly an American success story. Recognized as the Nation's largest manufacturer of kettle chips, Shearer's also proudly produces standard potato, tortilla, multigrain and extruded chip products. Shearer's currently employs nearly 2,000 individuals with total manufacturing space of over one million square feet in five states—Ohio, Texas, Oregon and Virginia.

Today, I would like to share our concerns regarding potential changes in the EPA Greenhouse Gas Reporting and Tailoring Rules, and the resulting impacts on our industry. If the Clean Air Act C02 trigger points are lowered from 100,000 tons per year to suggested values such as 250 tons, all five of Shearer's sites would be subject to expensive and unnecessary Title V requirements as well as those associated with PSD regulations. In a fiercely competitive market where margins are accumulated in pennies and not dollars, the cost and compliance burdens associated with these sites would be substantial and should not be underestimated.

Shearer's does recognize a concern for the results of growing greenhouse gas concentration levels, but believes that our industry's greatest ability to positively impact these concerns comes through the proactive and voluntary management of sustainability and energy reduction programs, rather than through mandated government intervention and increased regulation. Substantial participation in previous programs such as Climate Leaders has indicated our industry's willingness to accept proportionate accountability and to effect positive change in a voluntary manner.

To discuss real change, it has been my pleasure to work with our CEO Bob Shearer and our President Scott Smith, as well as all of our Shearer's associates in creating a culture of sustainability and corporate social responsibility, one that embraces the communities and environments in which we reside and operate. With energy and greenhouse gas tracking programs in place since 2007, Shearer's elevated its commitment to this program in 2009 with the design and construction of our new facility in Massillon, Ohio under the guidelines of the United States Green Building Council's LEED program, Leadership in Energy and Environmental Design.

Shortly following the commissioning of this building in June of 2010, this site was recognized with the highest honor, the Certification of Platinum. With this, it was the only plant, the only manufacturing plant in the United States, and the only food manufacturing plant in the world, to receive this honor.

In order to participate in this certification, Shearer's was required to establish not only baseline values for energy use in our industry, but also demonstrate a total energy intensity reduction of

at least 14 percent. Like other manufacturers, the large portion of our energy consumed is in our manufacturing, over 83 percent. That comes in the form of natural gas and electricity that we use in the processes of cooking, baking, and frying our products.

Shearer's was only able to achieve the required intensity reductions through the redesign and reconstruction of our basic processes. The resulting innovations resulted in patent pending designs for new ovens, heat recovery systems, and the recycling of energy in our plants.

In summary, the site was measured and verified to use over 30 percent less total energy than our comparative plants. This site was funded without any Federal grants or contracts, or any additional investment. Shearer's had to go to the level of investing 5.5 percent of the total project cost to reach these goals. However, the business case was there and a return on investment was made within less than 3 years. As a result, these innovations and enhancements are being passed on to our other facilities.

Future market impacts. In simplest terms, Shearer's manufacturing relies on three primary ingredients—labor, energy in the form of natural gas and electric, and agriculture (potatoes, corn and grain). Shearer's has already witnessed shifts in our supply chain indicating the outcomes of greenhouse gas will continue to impact our supply chain moving forward. Shearer's is very sensitive to fluctuations in energy markets as well, where even small changes can result in devastating impacts. Our largest plants maintain yearly budgets of $5 million for natural gas and over $2 million in electric costs. Shearer's ability to consider the potential benefits of sustainable projects such as cogeneration to offset these energy costs have been severely limited by the uncertainty surrounding these established thresholds and the potential for the EPA to drop these triggers.

In conclusion, Shearer's continues to proactively push the efficiencies of our processes, lowering energy use and associated greenhouse gas emissions. It is our belief that any attempts to control or reduce the impacts of greenhouse gas emissions must both be scientifically sound, as well as economically sustainable. This must be executed in a stepped and methodical approach, and with the involvement of affected industry partners.

Shearer's would like to thank the subcommittee for its consideration of this important issue and we are open to answer any questions that you may have.

[Applause.]

[The prepared statement of Mr. Weyandt follows:]

The American Energy Initiative

Shearer's Foods Perspective

Testimony of Scott E. Weyandt
Director of Sustainability & Compliance

July 16, 2012

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STATEMENT OF SCOTT WEYANDT, DIRECTOR OF SUSTAINABILITY & COMPLIANCE, SHEARER'S FOODS, INC.
HOUSE ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEE ON ENERGY AND POWER
JULY 16, 2012

Mr. Chairman, members of the Subcommittee, Good Morning and thank you for the opportunity to participate in your proceedings. My name is Scott Weyandt, and I am Director of Sustainability & Compliance for Shearer's Foods, Incorporated. Over the course of 35 years, Shearer's has grown from a single family owned grocery distribution truck in Canton, Ohio, to become a $530 MM+ salty snack manufacturer with yearly sales of 300 MM+ lbs in the US and beyond. Recognized as the nation's largest manufacturer of kettle chips, Shearer's also proudly produces standard potato and tortilla corn chips, as well as multigrain and extruded snacks. Shearer's currently employs nearly 2000 individuals, with total manufacturing space totaling over 1,000,000 ft^2 at five (5) sites in Ohio, Texas, Oregon, and Virginia.

Introduction

I would like to share our concerns regarding potential changes to the EPA GHG Reporting and Tailoring Rules and the resulting impacts on our industry. If the Clean Air Act CO2e trigger thresholds are lowered from 100,000 tons per year to suggested values, such as 250 tons, all five (5) of Shearer's manufacturing sites would be subject to expensive and unnecessary Title V requirements as well as those associated with PSD regulations. Currently, none of the Shearer's sites have Title V permits. In a fiercely competitive market with margins accumulated in pennies rather than dollars, the cost and compliance burdens to the impacted sites would be substantial, and should not be underestimated.

Relying upon accredited research such as that presented by NOAA, Shearer's does recognize a concern for the results of growing GHG concentration levels, and believes that our industry segment has the

greatest ability to positively impact these concerns through the proactive and voluntary management of sustainability and energy/GHG reduction programs, rather than through mandated government intervention and increased regulation. Substantial participation in previous programs such Climate Leaders has indicated industry willingness to accept proportionate accountability and to effect positive change in a voluntary manner.

Real Change

It has been my honor to work our CEO & Founder Bob Shearer, our President Scott W Smith, as well as all of our associates in creating a culture of sustainability and corporate social responsibility, which embraces the communities and environments in which we reside and operate. With energy and GHG tracking and reduction programs in place since 2007, Shearer's elevated its commitment to providing leadership in sustainability and energy use in 2009 with the design, and construction of our newest manufacturing site (the Millennium Plant) in Massillon, Ohio under the guidelines of the United States Green Building Council, LEED (Leadership in Energy and Environmental Design)® program.

Shortly following the commissioning of this building, in June 2010, this site was recognized with USGBC Certification® as LEED Platinum®, their highest honor, making it the only manufacturing site of any kind in the United States, and the 1st food manufacturing site in the world, to receive this distinction.

In order to participate in the LEED Certification®, Shearer's was required to establish baseline values, previously undefined for our industry specific equipment, as well as demonstrate total energy intensity reductions of at least 14% as a prerequisite. With over 83% of the energy (natural gas and electric) that we consume used in the processes of cooking, baking, and frying corn, potato, and other grain products,

Shearer's was only able to achieve the required total energy intensity reductions through the redesign and reconstruction of our basic processes and manufacturing equipment.

The resulting innovations resulted in a patent pending ceramic infrared Tortilla Chip oven which uses 47% less natural gas, and advanced heat recovery systems which harness the latent energy potential in oven exhausts and steam released in the cooking of potato slices. These heat recovery systems provide recycled energy (up to 15MMBtu's/day) for over 90% of the building HVAC loads, as well as provide energy for sanitation water, precooking of corn and heating of process water prior to anaerobic water pretreatment systems.

In summary, this site was measured and verified to use over 30% less total energy intensity with commensurate reductions in GHG emissions. This site was funded without any Federal grants or contracts, and required an additional investment by Shearer's of approximately 5.5% of the total project costs ($65MM) to reach these goals. With a less than three (3) year ROI, these energy and GHG reduction enhancements are currently being evaluated and implemented, where possible, at our other manufacturing sites.

Future Market Impacts

In simplest terms, Shearer's manufacturing relies on three (3) primary ingredients: labor, energy (natural gas and electric), and agriculture (potatoes, corn, and grain). Shearer's has already witnessed shifts in our supply chain suggesting that the outcomes of GHG build up and climate change are already impacting growing seasons, resulting in higher commodity pricing which shows no signs of slowing. Additionally, Shearer's is very sensitive to fluctuations in energy markets, where even small changes can result in devastating impacts to fiscal prosperity. Our larger plants maintain yearly budgets of $5MM+ in natural gas costs, and $2MM+ in electric costs. Shearer's ability to consider the potential benefits of

sustainable projects such as cogeneration to offset these energy costs, have been severely limited by the uncertainty surrounding the established thresholds on CO2e emissions and the potential for these triggers to drop.

Conclusion

Shearer's Foods continues to proactively push the efficiency of our processes, lowering energy use and associated GHG emissions. Our belief is that any attempts to control or reduce the impacts of GHG emissions must be both scientifically sound, as well as economically sustainable. This must be executed in a stepped and methodical approach, and with the involvement of affected industry partners. Any new, or overly broad rules to limit the emissions of clean burning natural gas, may have potentially devastating impacts on the food sector.

As currently enforced, the 100,000 tpy trigger appears to be effective in targeting large quantity GHG generators. While Shearer's, as well as other food industry partners will ultimately feel the downstream cost impacts of a climate change regulatory program through our energy providers, these costs pale in comparison with the potential economic and regulatory burden suggested by the potential of EPA lowered limits such as the 250 tpy CO2e threshold.

Shearer's Foods thanks the subcommittee for consideration of this important issue, as well as allowing us to share our perspectives. We would ask Congress to give serious consideration to the negative impacts on the food industry that accompanies any attempts to regulate such small amounts of emissions.

Thank you for your time. I would be glad to answer any questions that you may have.

Mr. WHITFIELD. Thank you very much, Mr. Weyandt, we appreciate that.

I will recognize myself for 5 minutes of questions.

Mr. Street, you mentioned about the President being committed to an all-of-the-above energy policy and I might say that when he developed his campaign Web site about 5 months ago, we were looking at the Web site and every source of fuel was mentioned in that Web site except for coal. We wrote a letter and they actually put coal back in, but I think the actions of his administration indicate that while it might be on the campaign Web site, they do not have any intention of doing anything to facilitate the additional use of coal.

Now Mr. Nation, you and Mr. Weyandt are both involved in manufacturing and the President talks frequently about the need to rebuild manufacturing and create new manufacturing jobs in America. And your company, Parkdale Mills, Mr. Nation, you said is the largest spun yarn company in the world, is that correct?

Mr. NATION. That is correct.

Mr. WHITFIELD. And you have, is it 4,000 employees?

Mr. NATION. Just over 4,000 employees.

Mr. WHITFIELD. And you operate in six countries in addition to the U.S., correct?

Mr. NATION. That is correct.

Mr. WHITFIELD. But most of your production comes from the U.S., right?

Mr. NATION. Ninety percent, that is right.

Mr. WHITFIELD. And how many employees did you say you all had, Mr. Weyandt?

Mr. WEYANDT. Just under 2,000.

Mr. WHITFIELD. Two thousand.

Now if this greenhouse gas rule is finalized, in the previous panel, the CEOs of these major utility companies all indicated that prices are going to go up for fuel, for electricity. And both of you seem to be saying that there is very little that you can do to reduce the amount of electricity that you need, is that correct?

Mr. NATION. There is very little we can do at all. Our factories run 24 hours a day 7 days a week, we have to control our atmospheric conditions and we have to run every motor on every machine, just like he said, to try to make pennies when you spend millions of dollars, because we are a commodities business. We have no way to lower our energy costs any more.

Mr. WHITFIELD. So to set aside the question of reliability because everyone is quite concerned about the reliability issue of whether you can get the electricity you need, but just focusing on the price, if these actually go into effect and then they also take it down to existing power plants, that is going to be devastating to your companies, is it not?

Mr. NATION. It will, it could easily result in job loss, it certainly will stop future investments. We are in business to make a profit, we have to go where we can make a profit. If the energy costs are prohibitive, we cannot do it.

Mr. WHITFIELD. Well, I know that in Kentucky, where I am from, we have some big aluminum plants there that have indicated that their margins are so low that if these electricity prices continue to

go up, that they will move their facilities to Canada. And if you cannot economically compete here in the U.S., then you either have to decide, I suppose, to go out of business or go somewhere else. Is that correct?

Mr. NATION. Those are basically your options, that is correct.

Mr. WHITFIELD. You agree with that, Mr. Weyandt?

Mr. WEYANDT. That would present significant challenges for Shearer's. Currently electricity is the smaller portion of the two energies that we use. Again, per our discussion, frying, baking, those are the processes we use which are very natural gas intensive.

Mr. WHITFIELD. Well, now baking, we have had bakers come to Washington and testify about the impact that greenhouse gas regulations will have on them from their emissions.

Mr. WEYANDT. And that is the bigger concern for Shearer's, when I talk about Title V permitting, is that the rules as described—the first panel was energy producers in terms of the supply chain to us, but the rules also could roll down if the limits are lowered significantly, they could impact us directly in terms of the air permits that we manage for our equipment which does combust natural gas, ultimately asking us to report on our greenhouse gas emissions, or could eventually cap or limit how much production we could use.

Mr. WHITFIELD. I see. And that is a real threat because under the Clean Air Act as it exists today, EPA has a responsibility and a legal obligation to enforce emissions under their new proposed regulation to much smaller companies. I mean the New Source Performance Standard is focused on larger utility companies, but if they literally abided by the statute—and they have indicated that eventually, they are going to go down, down, down to smaller facilities—it would directly impact you on your emissions.

So this could get even much worse than it already is and that is why we are doing everything that we can do to try to prevent EPA from finalizing this rule.

At this time, I will recognize Mr. Griffith for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman. Let me follow up on that because I do think that is important and you referenced if the EPA lowers it.

In reality, the Clean Air Act calls for that 250 ton standard and they have unilaterally on their own changed the law and they got a DC Circuit Court to agree with them that that is because if you apply what the Congress wrote back in the 1990s to greenhouse gases, particularly carbon dioxide, it is not doable. That being said though, there is a suit that is going to be appealed from the DC Circuit on up and that suit claims that they do not have the power to, what they call, tailor the rule.

And I would have to agree with you that it would be hard on a lot of businesses in this country should the actual law be applied. It was not the members of Congress who made that decision, 250 tons was the law that they wrote, but they never put the words greenhouse gases or carbon dioxide. And in fact, Mr. Chairman, correct me if I am wrong, but I believe even the man who wrote the bill, Congressman Dingell, has said they never anticipated that it would apply to carbon dioxide. Am I correct on that?

I yield.

Mr. WHITFIELD. Actually that is true. As a matter of fact, when they had a conference between the Senate and the House, when the Clean Air Act was last amended in 1990, one of the members, I was told, introduced an amendment to allow greenhouse gases to be regulated and they would not accept it.

Mr. GRIFFITH. So that is where that problem comes in. So it is not just the EPA that may make a decision to lower it, it may actually be the courts that ultimately determine that they have no choice but to lower that standard, thus affecting business. And that is why there is so much concern over this particular regulation, because it is not just the current effects we heard about on the last panel or the effects we have heard on this panel, it is the future effects if they actually implement the law the way it was actually written originally.

Mr. Street, let me ask you this. I know that you are here today representing the Buchanan County Chamber, but also are a manufacturer, are you not?

Mr. STREET. That is correct.

Mr. GRIFFITH. You manufacture conveyor belts, if I remember correctly, and other items for the coal industry?

Mr. STREET. We actually build the conveyors, we do not build the belts. We build all the terminal groups and I have been in business since 1981 with another partner. We service the coal industry, probably 75 to 80 percent will be directly shipped to the coal industry this year and some of the people are here, we ship to all the major companies throughout the United States.

Mr. GRIFFITH. And one of your customers is in fact Patriot Coal that went bankrupt last week?

Mr. STREET. That is correct.

Mr. GRIFFITH. And that is part of the reason why your employees are very concerned about whether or not they are going to have jobs in the months to come, is that true?

Mr. STREET. Well, what happened, on Tuesday morning, we suspended all their orders going to Patriot Coal. And naturally you send it out in the work sheets that we have stopped, we put those back and put other orders ahead of those and our employees became very, very concerned about, you know, what is going on. And with the Internet, they found out that Patriot had filed bankruptcy, which I know with the regulations and compounded with EPA and investors not wanting to invest in the coal industry, as per se that the coal-fired plants are being shut down, the steam market is in devastation.

The first thing I heard—as a matter of fact, I was on the property in West Virginia on Monday and the first thing I heard on Tuesday morning was what is going on, do we still have a job? And naturally we sell to other companies throughout the industry. I reassured them and then with the announcement that they did have financing, DIP financing in Chapter 11, that we were reassured that all the orders that we had were going to be in place the rest of 2012.

So my employees are very, very concerned even though we are still working 10 hours a day, two shifts.

Mr. GRIFFITH. And you indicated earlier that you have never had to lay anybody off and can I assume that because you are part of

the community, that you will do everything in your power, notwithstanding the devastation that is happening in various parts of the coal industry, to keep all those people employed if you can?

Mr. STREET. We are going to do everything we possibly can. We could probably cut back to 8 hours a day, two shifts. We are not going to do anything to lay anybody off. Fortunately we have numerous contracts with other large companies throughout 2012 and we just recently received some orders from the potash industry that are quite large. We are trying to get diversified to a point, but our employees are very, very concerned.

Mr. GRIFFITH. All right, I appreciate that.

Mr. Nation, you told me earlier that either this year or late last year, that you one time had to tell a group of employees, several hundred, that you were going to have to close down that facility, and that you never wanted to do that again. Is that still your desire, to never have to close down a facility?

Mr. NATION. I have had the unfortunate experience of standing in front of a big crowd of people and telling them that they were losing their job, at that point in time it was due to poor trade regulations enacted. But it is what I work hardest on every day, is never having to say that again to anybody. But I need the government's help to do it, and I need this thing not to be passed.

Mr. GRIFFITH. You need this not to be passed in order to not to have to do that again.

I yield back, Mr. Chairman.

Mr. WHITFIELD. Thank you very much. We appreciate your testimony as well.

I might just make a couple of comments. One, we appreciate the work that you do as manufacturers because you are a very large company, some of these companies are small, but two out of every three jobs created in America today are still created by small business men and women, and at a time when our economy is struggling and efforts are being made to decrease unemployment, increase employment, we are not making much progress. And the reason Morgan Griffith and many others of us in Washington are having so many hearings and writing letters and meeting with Lisa Jackson and Gina McCarthy and others over at EPA is that we feel like with the multitude of regulations coming out of EPA at this particular time in our Nation's history, our economy is so sluggish we need to do more to create jobs rather than create obstacles that make it more difficult to create jobs.

One of our witnesses earlier mentioned Region 1 Administrator for EPA, a fellow named Curt Spalding. I am not sure if he is still the Region 1 administrator or not, but two days after EPA released its greenhouse gas proposed regulation, he gave a speech at Yale University and he said this, among other things, "If you want to build a coal plant, you have got a big problem. You must remember if you go to West Virginia, Pennsylvania, Virginia, Kentucky and other states where communities depend upon coal, you say to those communities, you should go away."

And as I said in the very beginning, when EPA goes through these thorough analyses looking at benefits from proposed new regulations, they inevitably talk about we are going to stop X thousands of premature deaths, we are going to stop X thousands of

hospitalizations, we are going to stop X thousands of heart attacks that they have come up with these numbers through some modeling that they do. And yet, the thing that is so frustrating about it is they never go to the communities where the jobs are going to be lost when they implement the new regulations, to determine the cost for that community, those people and what it means to them and their families when they lose their healthcare.

[Applause.]

Mr. WHITFIELD. They talk about the new jobs that are going to be created in the green industries and they have said recently that they have created four million new jobs in green industries. But, you know, Morgan, when Darrell Issa had that hearing on the definition of a green job, under this administration, we found out that if you are someone working in a service station and you fill up a bus, that is a green job; if you work in an antique store, you are recycling, that is a green job. So the definition of the green jobs has been skewed in such a way that yes, you can talk about all the jobs created but we know when they gave 538 million taxpayer dollars, to Solyndra, to a company controlled by George Kaiser of Oklahoma, who bundled millions of dollars for the President. And by the way, after they received that money, as you know, they went into bankruptcy, but they subordinated the taxpayers of America who provided the money so that they would get their money back after the venture capitalists and the private people got their money back.

So this administration, in my view, even though they talk about middle class America, they are not nearly as interested in middle class America as they say.

So thank you all very much for being with us today and Mr. Griffith, do you have any other questions or comments?

Mr. GRIFFITH. Well, if I could expand on that a little bit.

Two things; one that I think is extremely important, I know that all of you all want to keep your jobs in the United States if at all possible. What sometimes is forgotten is that if we make our energy costs so high by unreasonable regulations, that a company has to send their jobs—either they close down and somebody else in another country starts producing that product, or they have to send their jobs overseas. What then happens is those countries are producing the goods that we used to manufacture here. Might not apply to potato chips, but it certainly applies to Mr. Nation's yarn products. And what happens then is they do not have the reasonable regulations that we already have. So when you send those jobs to Colombia or to India or to China or Kazakhstan, and they do not have those reasonable regulations that we have currently, they put more air pollution into the air. And according to a NASA study, it takes 10 days to get from the middle of the Gobi Desert in China to the eastern shore of Virginia. So what happens is we send our jobs over there because we have policies that make the cost of energy so high that a company cannot stay here, and then we get shipped back the air pollution that was the original reason for shipping away our jobs in the first place.

[Applause.]

Mr. GRIFFITH. If you look at the total picture, it just does not make any sense.

And, you know, I am reminded by both a bumper sticker and by the facts that we have heard in front of our committee that you have gone into in so much detail to make sure that we have all the facts in front of us, and that is the number one indicator for whether or not people have health problems in their community is the poverty level. And so I am reminded of that bumper sticker that I have seen on a number of vehicles around this district, and that is "If you think coal is ugly, wait until you see poverty."

Mr. Chairman, I think it is extremely important that we have heard from these witnesses today, that we have had it open for folks who do not have to travel to DC to see what our hearings are like, and to understand what we are trying to do. I appreciate that very, very much.

I thank you so much for doing that, and I yield back my time.

Mr. WHITFIELD. Well, thank you.

[Applause.]

Mr. WHITFIELD. In conclusion, I would simply say thank you for coming. It is important that we all be aware of precisely what is going on in Washington and the impact of decisions being made there.

I want to once again thank the Southwest Virginia Higher Education Center and all of the people here who helped us put this on.

I will tell you what, I found out Morgan Griffith is a determined fellow, because he stayed on us about this hearing, and we are delighted that we came because it was something that needed to be done.

I want to thank you three witnesses for being with us as well as those on the first panel. We look forward to working with all of you to do everything in our power to have more common sense regulations and laws adopted in Washington, DC.

So thank you very much and that adjourns today's hearing.

[Applause.]

[Whereupon, at 11:12 a.m., the subcommittee was adjourned.]

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